

Exhibit 16



TRACKING STEP BY STEP... JOEL HARDIN PROFESSIONAL TRACKING SERVICES

225 Mill Road, Stites, Idaho 83552 telephone 208-926-4390 Email: Joel@jhardin-inc.com

June 19, 2008

Federal Public Defender
District of Arizona
Sylvia Lett, Attorney, Rick Klosinski Investigator
Capital Habeas Unit
407 W. Congress, Suite 501
Tucson, AZ 85701-1310

I have been asked by the Federal Public Defenders Office, Tucson, Arizona to examine photographs of a deceased 4 year old female. I was asked to determine by my training and experience if I could identify any footprint markings on this body.

I have reviewed 101 – 8X10 photographs of the deceased that include the full body, head to feet, front and back. I have identified three footprint impressions on the front, mid-section, stomach/lower chest area of the body.

The first and most clearly defined footprint impression appears in photos' # 01025, 01026, 01027, on the right of the stomach midline of the body. This is the barefoot impression of a right foot, impressed solidly, just below the rib cage on the stomach area. By my training and experience I note the full imprint of the barefoot, the circular shape of the heel, the shape and size of the instep, ball of the foot and five toes. I have used the medical examiner's square rule that appears in the photo as a measurement tool. I find that the heel is approximately 1 and ¼ to ½ inch across, the ball of the foot approximately 2 ¼ to 2 ½ across, and the overall length of the foot approximately 5 ½ to 6 inches.

The second and third footprint impressions, seen in photos' #0848, 0850, 0852, 0854, are of one barefoot print partially superimposed upon another. These are barefoot impressions of a left foot appearing on the left side of the stomach midline, just below the rib cage on the stomach area. Due to being superimposed, one mostly on top of the other, measurement is less accurate and distinct.

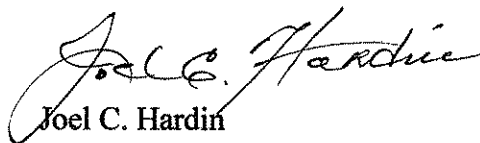
However, the foot impacted the body solidly and is approximately the same size as that of the first footprint.

In my forty years of tracking and footprint forensic examinations I have come to know that footprint impressions may vary significantly from actual foot or shoe measurement due to the substance upon which the impression appears. In this case, the body of this child was not a solid surface upon which the bare foot was impacted. I have only photos from which to make an approximation of size. However these barefoot impressions would generally be those of a child between the ages of 4 or 5 and 8 years.

In my experience I have come to know that the mere stepping upon a body may leave a mark or slight superficial abrasion or swelling with redness. The barefoot impressions that I see here are impacted solidly on this body as though "stomped" deliberately trying to cause bruising or pain.

As a regular and usual portion of my experience for the past thirty years I have been called upon to examine and to search actual scenes and photos of scenes, for the footprint impressions of adults and children, both barefoot and with various types of footwear. I have had the opportunity and experience of finding and identifying footprints of both children and adults on many different types of surfaces, i.e. soft and hard ground surfaces, flooring materials, articles of clothing or other materials. I have studied, measured and identified details impressed by such footprints upon these surfaces. I have studied photographs to find and identify footprint impressions on such surfaces. I have been asked to make footprint impression measurements, comparisons and render opinions based upon my studies and actual experience involving more than a hundred different types of footprints on different surfaces. I have examined photos of human bodies to determine whether or not there were any marks or evidence upon those bodies that were the result of shoeprints, and if so the shoe type, style, position and any other particulars pertinent to the investigation.

Often I receive requests from both defense and prosecution attorneys to examine criminal case file photographic evidence and to find, identify and provide understanding of any forensic footprint impressions found. Often such forensic footprint impressions are in or on natural environment substances such as dirt, dust, grasses or other vegetation, natural bark or duff. Equally often the photographic evidence is of manufactured substances such as all types of residential and commercial flooring. Footprint evidence may be in blood or other body or natural fluids or transfers of such. Many of these crime scene photos contain images of deceased persons and necessitate the examination of all areas including the body, clothing, etc for evidence of footprint impressions


Joel C. Hardin



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Joel Hardin

Professional Tracking Services

Credential Summary

Experience

Other Professional Accomplishments

Education

Publications

References

Client List

Criminal Case List

Credential Summary

Chief Instructor: Joel Hardin Professional Tracking Services

Consultant: Consult with city, county, state and federal law enforcement agencies on criminal investigations regarding footprint evidence.

Related Experience: Founder, Universal Tracking Services
U.S. Border Patrol Special Agent, Office of Anti-Smuggling
U.S. Border Patrol Agent
Police Officer

Educator: Offer continuing education credit for search & rescue, military and law enforcement tracking courses with Edmonds Community College, Edmonds, Washington,

Teach police standard training certification course for States of Washington, Oregon, Montana, Idaho, California, Virginia, West Virginia, New York, Oklahoma, Missouri, Wyoming and Colorado.

Publications: Tracker: Case Files & Adventures of a Professional Mantracker
Self-published.

Experience

Chief Instructor: January 2004- Present	Joel Hardin Professional Tracking Services (JHPTS), a professional consulting and educational service formed to train and advise select groups, including military special operations, law enforcement, industrial security and search and rescue functions. It offers specialized and sophisticated levels of tracking training. <i>Client List attached</i>
Tracking Expert: - present	Testify in numerous criminal court proceedings. Recognized as Tracking expert by federal and state court systems. Assisted the National Association of Search and Rescue (NASAR) in the development of tracking standard and certifications.
President, Chief Instructor 1990-2003	Founded Universal Tracking Services (UTS) in 1990. UTS provided expert professional tracking training and consultation services for law enforcement, military and civilian search and rescue organizations.
Special Agent 1985-1990	U.S. Border Patrol Special Agent, assigned to Blaine, WA office of Anti-Smuggling Operations
Agent 1973-1985	U.S. Border Patrol Agent, assigned to Bellingham, WA Border Patrol Station.
Agent 1968-1973	U.S. Border Patrol Agent, assigned to El Cajon, CA Border Patrol Station
Agent 1965-1968	U.S. Border Patrol Agent, assigned to Chula Vista, CA Border Patrol Station.
Police Officer 1960-1965	Police Officer, Emmett, Idaho Police Department

Other Professional Accomplishments

Professional Tracking	Participated in numerous significant criminal investigations and missing persons searches that attracted wide media coverage. Produced primary evidence in the "Green River Serial Murders" and in many fleeing fugitive and escape incidents. Participated in international missing person searches in Mexico, Australia, Peru, Canada and Alaska.
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Developer	Developed professional tracking program for law enforcement, military and search and rescue organizations.
Speaker	Have presented tracking programs/lectures to the California Officers' Conference, the American Academy of Forensic Sciences and the National Association of Search and Rescue

Education

Academies	Attended Idaho Law Enforcement Academy, University of Idaho, Border Patrol Academy, Journeyman Border Patrol Academy, Border Patrol Special Agent Academy.
College	Attended Links Business School in Boise, Idaho (1958-1960)
Other Training	Trained under master tracker Albert "Ab" Taylor for four years. FBI Latent Fingerprint School, FBI Interview/Interrogation School, FBI Report Writing & Court Testimony School, FBI Crime Scene Investigations School

Publications

1990-2007	Tracking Training Manuals containing program processes, procedures and techniques for college accredited training.
2005	<u>Tracker: Case Files & Adventures of a Professional Mantracker</u> Self-published, USA

References

CRIMINAL INVESTIGATIVE REFERENCES

Office of Whatcom County Prosecutor,
David McEachran, at 311 Grand Street, Bellingham, WA. Telephone 360-676-6784.

King County, Washington Sheriff,
David G. Reichert. 206-296-3388

King County, Major Crimes Unit,
Sargent Mark Toner, - 206-205-7822

King County, Major Crimes Unit,
Homicide Specialist Kathleen Decker. – 206-205-7807

William J. Bodziak, Chief FBI Footprint Examination Laboratory (Retired)
Forensic Consultant Services – 904-287-8860

SEARCH AND RESCUE REFERENCES

1st Special Response Group, Moffitt Field, California
David Kovar, Commanding Officer: 650-278-1774

Cowlitz County Search and Rescue, Kelso, Washington
Sharon Ward, Senior Coordinator: 503-704-2366

San Diego County Search and Rescue, San Diego, California
Kimberly Kelly, Captain SDSO Reserve, Training Officer: 760-787-0344

Larimer County Search and Rescue, Ft. Collins, Wyoming
David Hake, Tracking Training Officer: 970-498-0664

San Juan County Search and Rescue, Silverton, Colorado
Pat Swonger, Tracking Training Officer: 970-387-5857

Institute For The Future
Paul Saffo, Director – 650-854-6322

Joel Hardin Professional Tracking Services Partial Client List July 2007

U.S. Army Special Operations Command
Fort Carson, Colorado

U.S. Army Special Operations Command
Fort Bragg, North Carolina

U.S. Navy Special Operations Command
San Diego, California

U.S. Border Patrol Academy
Artesia, New Mexico

SARTI, Mineral, Virginia

King County Sheriff's Office, King County, WA

New York State Search and Rescue Federation, New York

Cowlitz County Search and Rescue, Cowlitz County, WA

Pacific Crest Search Dogs, Skamania County, WA

Pacific Northwest Trackers, Washington

Siskiyou County Search and Rescue, Siskiyou County, CA

Flathead Search and Rescue, Kalispell, Montana

Latah County Search and Rescue, Latah County, ID

Valley County Search and Rescue, Valley County, WA

Blaine County Search and Rescue, Blaine County, ID

Larimer County Search and Rescue, Larimer County, CO

Rocky Mountain Trackers, Colorado

Cheyenne Search and Rescue, Wyoming

Elkhorn County Search and Rescue, Montana

1st Special Response Group, Moffitt Field, CA

Federal Public Defenders Association



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**Joel Hardin Professional Tracking Services
PARTIAL LISTING OF
CRIMINAL CASE PARTICIPATIONS
September 2007**

September 2007

Special assistance to Dallas, TX medical examiner in search to locate next of kin to a deceased homeless person.

June 2007

Assistance to Arkansas City, KS cadre of JHPTS trackers relative to current homicide investigation. Primary evidence testimony and preparation for trial.

January 2007 – September 2007

Special assistance to King County Sheriff's Office Homicide Bureau, expert analysis of historical photo evidence collected during homicide investigations. Participation in and review of tracking investigation reports relating to current King County, WA crime scene investigations.

September 2006 – September 2007

Assistance to Federal Public Defenders, Phoenix Office, furnish expert analysis of footprint evidence in on-going case appeal, attorney Ken Murray

August 24, 2006

Assistance to Adams County Sheriff's Office search for human remains and possible burial site

July 24, 2006

Assistance to Snohomish County Sheriff's Office, investigation of double homicide on Pinnacle Lake Trail.

July 2, 2006

Assistance to King County Sheriff's Office, investigation of home invasion, possible kidnapping on Vashon Island.

May 2006

Assistance to King County Sheriff's Office, investigation of possible stalking incident east King County.

March, 2006

Assistance to Federal Arson Task Force, Seattle, Washington in investigation of "ELK" arson investigation, Snohomish County, WA.

January, 2006

Assistance and consultation to Charlotte Harris, Federal Public Defenders Office, Western District Of Texas; File MJ-06-0008 File title: ARRELANES-Montes, Ruperto et. Al.

April, 2005

Provide consultation assistance to defendants Attorney Steve Demik, 225 Broadway – Suite #900, San Diego, CA 92101-5030 regarding US Attorney prosecution of INS/Border Patrol “Harboring” case.

February, 2005

Provided technical consultation and evidence examination for Mr. John Hannah of Hoidal & Hannah, P.L.C., Phoenix, AZ in regard to Henry v. Schriro, District of Arizona CV 02-0656-PHX-SRB.

January-December, 2005

Provided several technical forensic consultations and forensic examinations of “cold case” evidence for King County Major Crimes Unit, King County Sheriff’s Office, Seattle, WA.

September, 2004

Provided field investigative assistance to Snohomish County, Washington Sheriff’s Office – rape investigation case #SO 04-22567.

August, 2004

Provided field investigative assistance to Snohomish County, Washington Sheriff’s Office - (case # SO 04-19864, Kelly SARSTEN homicide).

August, 2004

Provided field investigative assistance to King County, Washington Sheriff’s Office – Major Crimes Unit, armed assault of a police officer.

08/21/2001 – Assistance to Skagit County Sheriff’s Office – missing female, Lydia Varo, probable homicide, search of residence and surrounding area for possible evidence.

**02/10/2001 – Assistance to Skamania County Prosecutor’s Office, Prosecutor Brad Anderson. Investigation of case #98-6262, events relating to the “accidental” death of adult female “Valerie Dietel” reported by husband to have fallen backwards from a Washington State highway #14 viewpoint along the Columbia River.

11/20/2000 – Assistance to Monroe Police Department, Snohomish County, Washington – Tina Wallace homicide, request for assistance to determination possible evidence at the scene where the deceased’s body was located.

**08/-/1999 – Assistance to Ivan Matthews Attorney – Federal Court review of State of Arizona vs Clarence Hill, death row case. Examined crime scene photos and compared with evidence held in custody.

10/03/1998 – Assistance to Whatcom County Sheriff's Office – Case # 98-010498 – missing female Keri Lynne Sherlock. Subject found murdered in woods near Mt. Baker off of highway #542. Detectives requested an evidence search of homicide scene to locate and determine whatever evidence relating to this crime.

06/17/1992 - Assistance to Whatcom County Sheriff's Office – Case #92-1-00523-1, MAXIMO ARROYO-MIRANDA. A shooting homicide had occurred at migrant housing located on Birch-Bay Lynden Road, near Lynden, Washington. The shooter was in custody but no evidence was found to place the defendant at the scene. I was asked to conduct a search of the crime scene and local area to locate whatever evidence that could be found that would relate to the defendant and commission of the crime.

**02/22/1992 - Shasta County homicide case – Boyd Wagner homicide, February 22, 1992 – Detective Mark Von Rader, Major Crimes Unit -- I was asked to make a forensic examination of crime scene photos to establish a time frame that the defendants' footprints were made at the scene.

03/16/1990 – Kittitas County, Ellensburg, Washington assistance to County Sheriff homicide investigation. Body parts found in garbage bag located under bush near the guardrail along a viewpoint on Washington State highway #82. Evidence search of immediate area and procurement of evidence with eventual tracking find of the skull for identification of victim.

11/25/1989 – Whatcom County Sheriff's Office missing person investigation – Mandy Stavik, 18 year old female. I conducted search of residence and local area to locate any evidence leading to location or explanation of the missing person.

10/01/1987 - Homicide investigation for Whatcom County – body of a male homicide victim found near Intalco Refinery – determination of information and evidence at the scene.

**01/10/1985 – Donna Marilyn Howard homicide investigation – assistance requested by Robert "Bob" Keppel – Washington State Attorney General Investigation. Victim died January 10, 1975 in a three-sided stable area. The cause of death was determined by autopsy to have been accidentally kicked in the head by her horse. I was asked by Special Investigator Robert "Bob" Koppel to make a forensic examination of crime scene photos and to determine any relative evidence to the victim's death.

**10/18/1984 – Assistance to Homicide Division, San Francisco Police Department. Examine and identify suspect footprint from homicide crime scene photo.

06/01/1981 – Whatcom County Sheriff's Office homicide case #81-1-00201-6, Mario Ortiz. I was asked to attend at the crime scene and make an examination to locate any and all evidence that might relate to the person or persons causing the homicide of Mrs. Fanny Slotemaker.

05/25/1979 - U.S. Attorney's Office /U.S. Customs/FBI – Tracking and apprehension of, Artie Ray Baker - #A79A003873. Baker shot and killed Customs Inspector Kenneth Ward at the Lynden, WA port of entry into the U.S. on May 24, 1979 and fled with female subject Marie Laure Ferreboeuff.

** denotes forensic crime scene photo examination cases

Exhibit 17

THIS IS DET. FERRIER, BADGE 718, THIS WILL BE A TAPE RECORDED INTERVIEW WITH REBECCA LUX REFERENCE PCSD CASE 940502025, UH, THE INTERVIEW IS TAKING PLACE AT 1010 HOURS ON, UH, MAY 2, 1994. AND THE INTERVIEW IS BEING CONDUCTED AT THE, UH, SHERIFF'S DEPARTMENT MAIN OFFICE.

LEGEND: Q. DET. FERRIER A. REBECCA LUX

Q. Uh, Rebecca, could you just state your name for me?
A. Rebecca Lux.

Q. And, uh, how old are you?
A. Ten (10).

Q. Ten? And what grade are you in?
A. Fifth.

Q. Fifth? Ok. Uh, do you know your address?
A. (No response).

Q. No? Um, are you staying over on Benson Highway, does that sound right?
A. Yes.

Q. Ok. And, uh, you're, you're living in, uh, a mobile home there?
A. Yes.

Q. Ok. Uh, who's living there with you?
A. Barry Jones and Brandy Jones.

Q. Ok Barry Jones and Bran..
A. Brandy Jones.

Q. Brandy Jones. Uh, who's, uh, how old's Barry?
A. I forget.

Q. Is he an adult?
A. Yes.

Q. Ok. And, uh, Brandy Jones?
A. Eleven (11).

Q. Eleven? Is that, uh, Barry's daughter?
A. Yes.

Q. Ok. And, uh, who else is living there?
A. My mother and my brother and sister.

Q. Ok, and what's your mother's name?

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SUPPLEMENTAL
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STATEMENT OF REBECCA LUX--CASE #940502025

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A. Angela Gray.

Q. And your brother?

A. Jonathan Lux.

Q. And your sister is Rachel?

A. Rachel Gray.

Q. Rachel Gray? Ok. Um, I understand, uh, yesterday that, that Rachel got hurt, is that true?

A. Yes.

Q. Ok. Uh, can you tell me when you first found out that Rachel had been hurt and how you found out?

A. Well, um, I had just got back from my friend's house, I was playing over there, they were like choppin' wood and making stuff, and, uh, then my mom tried to ask her, how'd you get that, how'd you get that, she goes, she kept saying, a boy pushed me out of the van and hit me with a metal bar in the stomach, and, um, that's all.

Q. That's all? Do you know about what time that was that you got home from your friend's?

A. Like 15 minutes from 6:00.

Q. Fifteen that's from 6:00? Ok, so it was, uh, late afternoon, not dark yet.

A. Not dark yet.

Q. Ok. And, uh, do you know how long before you got home that happened?

A. No.

Q. No. And, uh, where was, uh, Rachel when you saw her?

A. On the couch.

Q. On the couch. And, uh, did you notice anything wrong with her?

A. She had a wash cloth on her head.

Q. On her head? Did you notice any blood or anything like that?

A. Yes, on the pillow.

Q. On the pillow? And she was just laying on the couch?

A. Yes.

Q. Did you see any marks on her stomach or anything like that?

A. She had 'feeties' on.

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Q. I'm sorry?

A. She had feet, 'feetie' pajamas on.

Q. Feetie?

A. Feeties, they're the ones...

Q. Fee...

A. ...that come with...

Q. Oh...

A. ...feet.

Q. ...ok. I know what you mean. Have, have to bear with me, I'm a little slow sometimes. Ok so she was wearin' her pajamas and she had a wash cloth on her head. Did you see any blood or anything?

A. On the pillow, that was it.

Q. On the pillow, uh...

A. And there was some on her hair but I couldn't really know what it was 'cause her hair was wet.

Q. And, uh, but she, personally, she, herself, told you that she got hit?

A. Her.. my mom.

Q. Your mom told...

A. She told my...

Q. ...you that?

A. ...mom. She told my mom and I heard it.

Q. Ok, so you, you were there when, when she told your mom?

A. (No response).

Q. Did it sound like it happened quite awhile before you got home? Or..

A. Quite awhile before I got home.

Q. Ok. And but yet she was just tellin' your mom wh-, when you were there what happened?

A. (No response).

Q. Ya..

A. Could've happened when I put the bike back but she was all playin' around like standin' up and watchin' TV.

Q. Who, who was standin' up watchin' TV?

A. Rachel.

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Q. Rachel? Do you know about what time that was?
A. About 5:15.

Q. 5:15? She looked ok then at 5:15?
A. Mm hm (yes).

Q. And then you think about 15 to 6:00, when you got back,
that's when you saw her on the couch?
A. (No response).

Q. Did she say what boy would have pushed her out of the van?
A. No.

Q. Do you have any idea who might have done that?
A. No.

Q. No? Does she have any special friends that she plays with?
A. There're two girls.

Q. Two girls? Did she say whether this was a boy or a girl
that pushed her out of the van?
A. She said a boy.

Q. A boy? Did she say how old the boy was?
A. No.

Q. Did it sound like it was somebody that she knew?
A. Kind of.

Q. Kind of? Like somebody that lives around there?
A. Yes.

Q. Have you ever, um, has Barry ever, uh, hit you?
A. No.

Q. Has your mom ever hit you?
A. No.

Q. No? They never hit you? Uh, not even a little spank?
A. No.

Q. No? They don't believe in, in hitting you guys?
A. No.

Q. Ok. You, you'd tell me if, if they did?
A. Yes.

Q. Ok. Uh, has, uh, Barry or your mom ever yelled at ya?
A. Yes.

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- Q. Ok. Uh, what do they do to punish you when, when you do bad things?
- A. Restrict us to our room for maybe two days or a weekend.
- Q. Restricted what?
- A. Our room.
- Q. Ok. So you gotta stay in your room when you're bad?
- A. (No response).
- Q. But neither your mom or Barry have ever hit you?
- A. No.
- Q. Ok. Uh, any, uh, any any other relatives hit you, any of Barry's friends, anything like that?
- A. No.
- Q. No. And, uh, how old is Rachel?
- A. Four.
- Q. Four. Uh, has, uh, has Barry ever touched any of your private parts or anything...
- A. No.
- Q. ...like that? No. Does he give you baths?
- A. No.
- Q. No. Uh, do you like Barry?
- A. Yes.
- Q. Ok, have you ever had any problems with him?
- A. No.
- Q. No. So you think he's a nice guy?
- A. Yes.
- Q. Ok. Do you think he would have, uh, hurt Rachel?
- A. No.
- Q. Ok. How about your mom, do you think she would have hurt Rachel?
- A. No.
- Q. So when, when you overheard Rachel telling your mom that, uh, uh, this boy pushed her out of the van, is that right?
- A. (No response).
- Q. And hit her in the stomach with a..
- A. Metal bar.

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STATEMENT OF REBECCA LUX--CASE #940502025

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- Q. Metal bar? Did you, did you believe that, that that's what happened?
- A. Yes.
- Q. Uh, now was your mom and Barry both home all day yesterday?
- A. No.
- Q. No?
- A. Just my mom.
- Q. Your mom was home all day? Uh, what, did Barry come and go or was he home some time?
- A. He would go out to the store to get stuff and go to his friend's house.
- Q. Ok. Uh, did any of the, any of the kids go with him, did you go with him?
- A. Rachel.
- Q. Rachel? She went with him?
- A. (No response).
- Q. Uh, just her and him?
- A. Mm hm (yes).
- Q. Ok. Uh, where did they go, do you know?
- A. To the store and the second place was to his friend's house.
- Q. To his friend's house? Uh, do you know where that is?
- A. No.
- Q. No, have you ever been there?
- A. No.
- Q. No. Ok. And, uh, do you know what time he came back with Rachel?
- A. Uh, he was only gone like for, when he went to the store like five minutes and a friend's house like maybe 20.
- Q. Uh huh (yes). And what time would that have been roughly, do you know?
- A. No.
- Q. It was morning or afternoon?
- A. Maybe 1:00 or 2:00.
- Q. 1:00 or 2:00 in the afternoon? Ok. Did you see, uh, Rachel after she got back from, uh, goin' to the friend's house with Barry?
- A. Yeah, when I was riding my bike around, um, the trailer

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court.

Q. Ok', but you saw her?

A. Yeah.

Q. Did she look ok then?

A. Yes.

Q. She did.

A. She was smiling and looking out the door.

Q. At the house?

A. Yes.

Q. Ok. And then, uh, Barry and your mother were both home?

A. Mm hm (yes).

Q. The rest of the afternoon?

A. Yes.

Q. And, uh, so you, you were riding your bike at 1:00 or 2:00 in the afternoon when she got home, too?

A. I was riding my bike ever since 1:00 o'clock to five minute, fifteen minutes of 5:00.

Q. Fifteen minutes of 5:00?

A. At 5:00, 5:15.

Q. 5:15?

A. Yes.

Q. Ok. Uh, what happened at 5:15 then?

A. I put the bike back and I asked mom if I could go to my friend, Susy's, house.

Q. Ok. And was Rachel there then?

A. Yes.

Q. What was she doing?

A. Watching TV.

Q. Ok, and she looked ok?

A. Yes.

Q. Alright. And then, uh, you went to your friend's, what was her name?

A. Susie.

Q. Susie? Does she live there in the same trailer park?

A. The, she, there's a trailer park and there's the desert, she

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lives in the desert...

Q. In the desert?

A. ..._____trailer cart..park.

Q. And you went over there for about a-half hour?

A. Yes.

Q. Then when you came back that's when you saw Rachel on the couch?

A. Yes.

Q. And, uh, you had no problems with Barry since you been livin' with him at all?

A. No.

Q. Uh, how long you been livin' with Barry?

A. For, for three years.

Q. How many?

A. For three years.

Q. For three years, so it's been quite awhile?

A. Yeah.

Q. And been staying in that same trailer?

A. Mm hm (yes).

Q. Ok. And it's you, and Rachel and your brother?

A. And my mother and my s.. Brandy and Barry.

Q. Ok. Do you guys all get along pretty good?

A. Yes.

Q. How's, uh, how's Brandy? Do you get along with her?

A. Yeah.

Q. She pretty good?

A. We get in, we consider each other as sisters.

Q. Uh huh (yes). Does, uh, Barry have a lot of friends come over?

A. Not all the time.

Q. No. Uh, any any of those friends ever been mean to you or or Rachel?

A. No.

Q. No. Ok. Uh, you were there, well you got back about 15 to 6:00, right?

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SUPPLEMENTAL
March 15, 1995

STATEMENT OF REBECCA LUX--CASE #940502025

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Penalty: \$10,000

A. Yes.

Q. And she was on the couch there?

A. Yes.

Q. Did, uh, uh, anybody do anything the rest of the evening with Rachel or wha-, what happened?

A. They kept putting wet wash cloths on her head so it would stop the ble-, blood.

Q. Mm hm (yes). Did anybody try to take her to the doctor or anything like that?

A. They, at the time that it happened Barry took, rushed to the paramedics and the paramedics said they couldn't do anything.

Q. And..

A. Nothing was wrong.

Q. And who told you that?

A. Barry.

Q. Barry? And, uh, your mom was home, I guess, at this time?

A. Yes.

Q. When that happened? So she would have, she would've probably saw her the same time Barry did, right?

A. I think so.

Q. And then Barry said he took her to the paramedics?

A. Yes.

Q. Uh, did you mom go with him?

A. I don't know.

Q. You don't know? This all would have happened while you were at your friend's house?

A. Yes.

Q. Ok. And so the paramedics said they couldn't do anything...

A. Yes.

Q. ...is what, that's what Barry told you?

A. Yes.

Q. Barry tell you anything else about that? About Rachel or things he should do or, uh, how he felt or..?

A. No.

Q. No. Did he, did he seem upset?

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A. Yes.

Q. Very upset?

A. Very.

Q. Ok. Uh, what was he saying exactly?

A. He kept saying, put another wash cloth on. Every time the wash cloth would dry out.

Q. Mm hm (yes).

A. To put more water in it.

Q. He was tellin' your mom this?

A. (No response).

Q. Did, uh, did he ma-, make any reference that he was gonna get the person that did this or anything like that?

A. No.

Q. No. Uh, when you were there, did he ask Rachel who exactly did this to her or anything like that?

A. My mom did.

Q. Your mom did? And that's when you heard Rachel tell your mom...

A. Yes.

Q. ...a boy pushed her out of the van?

A. Yes.

Q. Ok. And, uh, do you remember what happened the rest of the night then? Did she stay on the couch or..?

A. She, we had to go to bed early, 'cause we had to get a school day, we were supposed to go to school today and so she's staying with my mom on the couch watching TV.

Q. Ok, did you see her this morning at all when you got up for school or..?

A. We woke up at 6:00 o'clock, 'cause my mom was yelling.

Q. And what was your mom yelling?

A. For my sister to get up.

Q. And she couldn't get up?

A. (No response).

Q. I know this is very tough for you. Uh, what what happened then?

A. Barry and, um, my mom rushed her to Kino.

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unauthorized person
March 11, 1995

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- Q. Ok. And then you went on to school?
- A. Barry came back and we went to his friend's, friend's house so they could watch us and, um, he, he had the, he had a van and, um, then, 'cause one of his friends was with him, told him, 'cause one of his friends is close, real close to our mom, and so the friend took the van and went with my mom and, um, Barry stayed and went with his friend in the car to see what was wrong at the hospital.
- Q. Mm hm (yes).
- A. Then we came back like an hour, 30 minutes later, we went to Uncle Larry's house.
- Q. Your Uncle Larry?
- A. Barry's brother.
- Q. Uh huh (yes). And then did they take you to school or..?
- A. Yes.
- Q. Ok. And.. So this all must have happened within that, what, that half-hour time period from quarter after 5:00 to a quarter to 6:00?
- A. Yes.
- Q. Is what you believe? 'Cause she, you, you saw her?
- A. It could have happened when I was riding a bike and 'cause they said at first she wasn't bleeding.
- Q. Oh really? And then she was bleeding later? And who told you that?
- A. My mom and Barry.
- Q. Ok. And they, they noticed her bleeding later?
- A. Yes.
- Q. And that was from her head?
- A. Mm, on the side of her left or right head, part of her head.
- Q. Ok. So you think it could have happened earlier?
- A. Yes. Or around the time I was gone.
- Q. Could it have happened, do you think, when she was in the van with, uh, Barry, could she have fell out of the van when they were drivin' around or..?
- A. She'd be in the passenger seat.
- Q. Passenger seat. Ok. You, you didn't think it happened then, I mean...
- A. No.

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Q. ...the way you understood it, it happened there at your house?

A. Or somewhere where he had the car parked.

Q. Where he had the car parked? So it didn't sound like the car was drivin' when she fell out of it.

A. No.

Q. Ok. And that was Rachel that was tellin' you that?

A. Yes.

Q. So you don't know if it occurred there at the house or if it could have occurred at his friend's house or..?

A. Yes.

Q. It could have been either one?

A. Yeah.

Q. 'Cause your mom told you she wasn't bleeding at first?

A. Mm hm (yes).

Q. And then she started bleeding?

A. Yes.

Q. Well I, I sure appreciate you, uh, helpin' me with this, 'cause we sure want to find out who did this to Rachel. Uh, d-, does Barry usually get really upset when, when somethin' happens to the kids or..?

A. Yes.

Q. He, he takes that very seriously? Is he a nice man?

A. Yes.

Q. Uh, he's good to you?

A. Yes.

Q. Ok. Anything else you can think of that, that might be helpful to me that we didn't talk about?

A. No.

Q. No? Ok. I sure appreciate it. I will go ahead and end this statement now. The time is 11:25.

WITNESS:

DET. FERRIER #718

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TRANSCRIBED BY:

C. PENN, MAY 5, 1994

REVISED AUGUST 19, 1994, PER DET. FERRIER

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SUPPLEMENTAL
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Exhibit 18

ROUGH DRAFT
NOT PROOF READ

LEGEND:

Q. DETECTIVE DOWNING, #813 A. REBECCA LUX

Q. Were you interviewed or were you just talked to?

A. I was interviewed by tape.

Q. Oh, okay. Were, were did that happen at?

A. Sheriff's Department.

Q. Oh, you went down to the office and so your in like a little old junky room, huh? Okay.

A. This is better.

Q. This is better, cool. So, what's your whole name?

A. Rebecca Jeanine Lux.

Q. Rebecca Jeanine, that's a pretty name. Are you named after anyone in particular?

A. My grandma.

Q. Your grandma, well that's ni...

A. When we were eating breakfast she changed it to Betty.

Q. Oh. She did, huh. Okay. Well, um, what you eatin'?

A. Gum.

Q. Is it good? You gonna get a lot of it in your mouth? Yes? Okay. How old are you?

A. 10.

Q. You're 10. Alright. And when's your birthday?

A. May 23rd.

Q. May 23rd. Let's see. Let me think now, that's soon.

A. Alright. So how you doin'?

A. Okay.

Q. Okay. Do you know why you're here today? Do you know about, you do? You, okay. I'm a police officer, did you know that?

A. Um, hm (yes).

Q. Okay, I'll just show you my picture.

A. They told me a Sheriff.

Q. Okay. I'm a Sheriff. That makes me a cop. Same thing, huh. My name is CJ. And you know what, I talk to kids all the time. That's all I do is talk to kids and, and some of 'em, um, have some st-, some things they need to say that are

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- uncomfortable or this or that so, um, and that's okay, we get through it, okay. And you look like you're pretty relaxed, yeah? Okay. And so coming her today was your idea, wasn't it? Or talking to a police officer, was that your idea today? Seems like I'm doin' all the talking. So how, what do I call you, Becky?
- A. Sure.
- Q. Okay. Alright. So, Becky, how's it goin', what'd you do today?
- A. Went and got new clothes.
- Q. You did. Is that like too cool? Yeah? Where'd you go?
- A. First I went ta Target...
- Q. Um, hm (yes).
- A. ...then after we went shopping there, we went to get a haircut, my brother's hair cut. He didn't like any of 'em there, he wanted...
- Q. Didn't like the haircuts?
- A. ...he wanted a flat top.
- Q. Oh, okay.
- A. So now a boy with hair down, who had hair down to here...
- Q. Uh, huh (yes).
- A. ...has hair up to here. You can, you can see his skin on his head and he has a flat top up here.
- Q. What made him get a flat top?
- A. I guess one of my Uncles.
- Q. Oh.
- A. So you know, at school and Hal's kids, Hal, those kids in his school makin' fun of him just 'cause he has long hair like a girl.
- Q. Okay. So, um, you kinda came her today 'cause you had somethin' that you wanted to say? Do you wanta talk about somethin'?
- A. Sort of.
- Q. Okay. Wh-, what is it you kinda sorta wanta talk about?
- A. Have they found out why Rachel died?
- Q. Well, I think you might have some ideas, do you?
- A. Well before she went to sleep she said Barry hit her with a metal shoe bar in the head.

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Q. And who did she say that to?

A. My mom.

Q. She said that to your mom?

A. And my mom _____ got into an argument.

Q. Okay. How do you know she said that to your mom?

A. I was in the living room when she said it.

Q. Okay. So, um, you were in the living room and where were you sitting?

A. Right by the couch, right by her...

Q. Right by who?

A. ..._____ Rachel.

Q. Okay.

A. Holding her hand.

Q. You were holding Rachel's hand? Okay. And, um, who else was sitting on the couch? Anybody?

A. Brandie and my mom.

Q. Brandie and you...

A. There's two couches, um, one went this way, uh, one went this way and me and Brandie were sitting on the one that went this way and my mom was sitting on the one that went that way.

Q. Which one was Rachel sitting on?

A. That one that went that way. She was laying down.

Q. She was laying down. Was anyone laying down with her?

A. My mom was sitting up by her.

Q. Okay. And so how were you holding her hand?

A. I _____ down and hold her hand, we just holded hands.

Q. Do you remember what time this was?

A. It was real late. Somewhere around 8:00 o'clock.

Q. What makes you think it was 8:00 o'clock?

A. 'Cause that's the darkest part of night and it was before 9:00.

Q. It was before 9:00? What happens at 9:00 that you think it was before 9:00?

A. We have to go to bed.

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Q. Okay. So right before you had to go to bed, um, Rachel asked, told your mom what? Say that to me again.

A. Ra-, um, that Barry hit her with a metal shoe bar.

Q. A metal shoe bar?

A. You know the ones that you size up your feet at.

Q. Oh, so like if I were gonna go buy shoes and I put my...

A. Yeah.

Q. Okay. Alright. And did she say where that happened at or how it happened?

A. No.

Q. She didn't? Okay. Um, what made her decide to talk about that?

A. 'Cause my mom kept asking and wouldn't leave her alone until she told her what happened.

Q. What do you mean mom kept asking her what happened?

A. She just keep saying, Rachel what happened, Rachel what happened.

Q. Okay. And was, how was Rachel feeling, was she, I mean, how was Rachel acting?

A. She was ju-, every time she'd get a drink or eat she'd throw up five minutes later.

Q. How do you know that?

A. I'd see her.

Q. Okay. And, um, who was givin' her, um, somethin' to drink and somethin' to eat?

A. My mom.

Q. Your mom. How do you know that?

A. I saw.

Q. You saw mom do that? Okay. What kind of things did mom try to give her to eat?

A. Like a burrito.

Q. Uh, huh (yes).

A. Maybe a piece of bread from a corn dog.

Q. Okay. How many times do you think she tried to feed her?

A. A lot.

Q. Okay.

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- A. Try to keep it down 'til she ra-...
- Q. Did, do you know, do you know what time this supposed happened, that she got hit with the metal shoe bar?
- A. It could have been before 'cause I heard my mom and Barry over talking that she wasn't bleeding at first, that when she said that she fell out of the inside of the van.
- Q. Okay. You said you overheard mom and Barry talking, wh-, where were they at?
- A. Living room.
- Q. And where were you?
- A. Bedroom.
- Q. In which bedroom?
- A. The bedroom right by the living room.
- Q. So if I was to walk in the yard and I go up the steps, is that the front door?
- A. Um, hm (yes).
- Q. Okay, so as soon as I go in the door what room am I in?
- A. You'd be in the living room.
- Q. Okay and you were in, in...
- A. The room.
- Q. ...what's to my right then?
- A. The room.
- Q. Which room?
- A. Um, the girls' room.
- Q. And is, does that mean, when you say the girls' room does that mean you too? Okay. Is that the room you were in when you heard mom and...
- A. Yes.
- Q. ...and Barry talking? And what were they saying?
- A. They were like, okay, how she wasn't, first she wasn't cryin' and wasn't bleeding, then it started bleeding real bad.
- Q. How do you know it started bleeding real bad?
- A. When I came home from my friend's house, I went to my friend's house and when I, 'cause I was riding bike all day...

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Q. Um, hm (yes).

A. ...and then I went to my fri-, put my bike back and Rachel was just standing there watching me, and she waved bye.

Q. Standing where watching you?

A. On the steps. Watching me and she waved bye to me and, um, I asked my mom if I could go to my friend's house, Suzies.

Q. Okay.

A. So, then she said yes so I went over there and when I came back from my friends she, um, was on the floor because a pillow was stained with blood stains.

Q. What pillow? In, in which room?

A. The living room.

Q. Okay.

A. Um, I would be in the bed, um, laundry room.

Q. So, tell me this, when she was on the steps waving goodbye to you, had someone, had Barry already hit her in the head?

A. I think so.

Q. What makes you think that?

A. 'Cause when I went home she, it was only like 30, 30 minutes period I was away from home and when I came back home, Rachel was on the couch and she was bleeding.

Q. Okay. When you left for Suzies' house, was it dark or light out?

A. Light.

Q. Okay. So do you know what time it was?

A. Somewhere around 5:00.

Q. What makes you think that?

A. 5:15. 'Cause I put the bike up at 5:00.

Q. What makes you think it was 5:00 o'clock when you put the bike away?

A. I checked the time.

Q. You did, where?

A. At the house.

Q. Where in the house?

A. Do you know where Barry, the desk, that little desk is?

Q. When I go in the living room?

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A. Yeah.

Q. Um, hm (yes).

A. There's a clock right by it...

Q. Um, hm (yes).

A. ...tells you the time you just have to look _____ and you see it.

Q. Okay. So you come in the living room and she's, where is your sister?

A. Standing up.

Q. Okay. And how did she act?

A. Just like a normal kid.

Q. Okay. Well did you talk? What made her lay down on the couch?

A. I don-, I don't know. I guess she was tired and she was bleeding real bad.

Q. Okay. Tell me about, what day are we talking about, do you know what today is?

A. The 4th.

Q. Okay. Do you know what day of the week it is? Do you remember like is it Saturday? Is today Saturday?

A. No.

Q. What is today, do you know?

A. Tuesday. Wednesday.

Q. Wednesday. Okay. So what day are we talkin' about?

A. Sunday.

Q. You're talkin' Sunday.

A. Um, hm (yes).

Q. Okay. So what happened Sunday, you got up and tell me what, what's the first thing you did when you got up Sunday?

A. I got up, my friend wasn't there so...

Q. What do you mean your friend wasn't there?

A. Um, Brandie wasn't there. She was being at her friend's house. There was no cereal or anything to eat for breakfast.

Q. There wasn't?

A. So we waited 'til like _____ we made a burrito and my

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mom, we stayed up and Barry woke up and so did my mom. My mom was so sick in bed and woke up.

Q. What time did you mom and did Barry wake up?

A. 2:33.

Q. How do you know it was 2:33?

A. I checked the clock when we just were, when I, 'cause one of his friends had something important to tell him, I checked the clock when he goes write that up.

Q. So did his friend come and visit, is that what you're saying? Who was that friend?

A. Roger.

Q. Where's Roger live?

A. In Apache Tears I guess.

Q. So Roger comes over and that's what wakes Barry and Mom up?

A. Not, just Barry.

Q. Just Barry. Okay, then what happens?

A. Um, then he decided then after a few minutes after that my brother asked if he could ride a bike and I asked too and he said yes, so we were riding bike and was in the middle of a race and Barry said, Becky I'm gonna go to my friend's house, I'm takin' Rachel and I go, okay, 'cause, he always takes Rachel.

Q. He always takes Rachel?

A. Sometimes.

Q. How come?

A. They wanta get along.

Q. They wanta get along? Were they getting along before?

A. Um, hm (yes).

Q. Okay. Did Roger go with him?

A. Um, hm (no).

Q. Okay. And did Ro-, when did Roger leave, before you went to ride your bike or what?

A. Yeah, well five minutes after. He just had something to tell him.

Q. What did he tell him?

A. His...

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Q. Do you know...

A. ...one of his friends went to jail.

Q. Who was that?

A. Tiny, let's see, I'm tryin' ta think.

Q. It's okay. So Roger comes over, Barry wakes up and says somebody went to jail. Then Roger leaves...

A. And, um, me and my brother went to ride our bikes and we were having a race and...

Q. Okay.

A. ...like an hour after that, its probably about 4:00 o'clock, its around then, and he goes, I'm takin' Rachel to my friend's house, I'll be just down there and he pointed down there.

Q. Wh-, what do you mean by down there?

A. Alright. Do you know where Long Branch Saloon is?

Q. I know where the Long Branch Saloon is.

A. He was pointing directly down the street from _____...

Q. Towards the Long Branch Saloon?

A. No.

Q. Away from the Long Branch Saloon? If I'm facing the Long Branch Saloon which direction would I point, behind me or in front of me?

A. Behind.

Q. Okay. Down by the Fire Station?

A. Yeah.

Q. Is there a paramedic station down there?

A. Um, hm (yes).

Q. How do you know that?

A. 'Cause we walk to Quick Mart and that's the way we walk.

Q. Okay. Alright so, how does, how does Barry go ta Roger's? Does he walk?

A. No he has a van.

Q. He has a van, Barry does? And what color is the van?

A. Yellow.

Q. Okay. And what does the van look like on the inside?

A. Carpet on the floor and all like torn up in the sides of it,

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it has a _____.

Q. How do you know?

A. I've been in it before.

Q. Okay. So him and your sister get in the van and do you see your sister get in the van?

A. I didn't see her but I saw her at the seat.

Q. I'm sorry?

A. I saw her sitting down in the seat.

Q. Which seat?

A. The passenger side.

Q. What kind of seats are they?

A. They're like that chair.

Q. Okay.

A. But, just one, two seats, there's only two seats in that whole van.

Q. I'm confused. Is, is the van two separate, is there a driver's seat and then a passenger seat...

A. A passenger seat that...

Q. ...or is the whole seat this long like this couch?

A. ...no, it's separate seats.

Q. Okay. Anything in between?

A. It's what they call a dog house.

Q. Why do they call it a dog house?

A. I have no idea.

Q. Okay. Um, does it have a radio in it? No? Okay. Um, do you know how many pedals are in the floor from the driver's side? You don't? Do you ever play in that van?

A. Never.

Q. Does anybody ever play in that van?

A. Sometimes when Barry's in fixing wood and everything, Rachel goes in the van with him.

Q. What do you mean when he's fixing wood?

A. Like sawing wood to fix something.

Q. Sawing wood? Why would he saw wood in the van?

A. 'Cause that's wha-, or just getting stuff out of the van or,

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'cause sometimes he has to fix the van and there's wood in there and the van holds...

Q. Okay. So like if, remember if you had like an outside play house or a tree house, or somethin' like that, you, you know what that is right?

A. Um, hm (yes).

Q. Would you ever use the van for somethin' like that?

A. No.

Q. Would you ever like a bunch of you kids play house in the van?

A. No.

Q. How come?

A. It's not Barry's car, it's his brothers.

Q. What's his brother's name?

A. Larry Jones.

Q. Okay. So just because it's not Barry's car that means I'm not allowed to play in it?

A. We don't wanta get in trouble.

Q. You don't wanta get in no, so, are you, so would you get in trouble if you played in Barry's van? Why?

A. 'Cause there's a lot of expensive equipment like a new motor for the van and a piece like, there's plywood, screwdrivers and tools and he doesn't want us to get into it and get hurt ourselves.

Q. Okay. Alright. So Rachel and Barry get in the van or you don't see her get in the van but you see her sitting in the seat and then they drive away?

A. Then they came back like 30 min-, 30 minutes after they came back, he goes I'm going to the store, I'll be right back and he never came back like, at all after that.

Q. Okay. Where was Rachel when he came back?

A. With him and he took Rachel to the store.

Q. How come? Was she okay then?

A. Um, hm (yes).

Q. Did she have a, a hurt then?

A. No.

Q. No? Okay. So they went to the store, how do you know they

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went to the store?

A. He, we were, I was just riding along and he stopped me and and he goes I'm taking Rachel to the store. I go, okay.

Q. Wha-, what was he, was he walking when he took Rachel to the store?

A. It was the same van.

Q. Same van. And did you see her in the van?

A. Yes.

Q. Where was she in it?

A. Passenger seat.

Q. Was she hav-, did she have a seat belt on or anything?

A. There is no seat belts in the van.

Q. Okay. What store did he say he was goin' to?

A. I don't know.

Q. Or did he?

A. If he was going to the store he would either go to Quick Mart or Choice Market.

Q. Okay. He would either go to one of those two? Why would he go to just those two?

A. He doesn't like any other stores.

Q. How do you know? Have you ever been to another store with him before other than those two?

A. The only time we go to Circle K is to get gas.

Q. Okay. So he went, they went to what you thought was the store and then when, what happens next?

A. They come back and I start riding my bike and I was just riding past and Rachel was all, all standing out on the porch waving hi and I just had to put my bike up 'cause my brother put his bike up and I wanted to go play with my bes friend's house so I a-, put the bike up in the back...

Q. Okay.

A. ...and I asked my mom if I could _____ Suzie and she was just wavin' goodbye to me and my mom said yes and I went over to my friend Suzies', half an hour later I came back. It was like...

Q. How do you know it was a half hour later?

A. I left at 5:15.

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- Q. What, what makes you think you left at 5:15? I know these are a lot of questions and you know what, you are doin' a good job. You are.
- A. It, well it, it takes 10 minutes to get in the back with the bike and it takes 5 minutes to get from the back to the trailer.
- Q. Okay. Well its okay if you don't know, I just wanted to know how you knew it was all the times, that's all. So, okay, so you get home and you put your bike away and your sister is where?
- A. In the living room standing up and watching TV.
- Q. Standing up and watching TV? Did you know whether or not she was hurt then?
- A. No.
- Q. She wasn't hurt or you don't know?
- A. I don't know.
- Q. Okay. So you leave and you go to your sister, you friend's house and what's her name?
- A. Suzie.
- Q. Suzie and wh-, does Suzie live in the trailer park?
- A. She lives, like the last trailer has a big fence over it...
- Q. Uh, huh (yes).
- A. ...and the barbed wire fence is...
- Q. Uh, huh (yes).
- A. ...broken because like, _____...
- Q. Yeah.
- A. She lives in that trailer right there.
- Q. Yeah. Okay. What's Suzie's last name?
- A. I have no idea. I haven't met her for, I haven't been friends with her for a long time.
- Q. Yeah. How come?
- A. I just met her like a couple days before it happened, like on Wednesday.
- Q. Yeah. How long have you lived at that trailer?
- A. For about three or two months.
- Q. Yeah. What makes you think so?
- A. It's been a long time and I have, and when I used to go to

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Davidson, that was a month ago and _____ I figured two months.

Q. Yeah. Okay. Good figurin'. Okay. So you go to your friend's house, and sister's standing up watching TV and do you guys talk?

A. Only times when I'm bored and the times she's bored...

Q. Okay.

A. ...we play catch and everything.

Q. Alright, yeah. So like when she's standing up and you're gonna leave, do you say anything to her?

A. I say goodbye Rach, I'll see you later...

Q. Okay.

A. ...and she's okay.

Q. Alright, yeah. So you go to your Sus-, friend's house and you come back, what happens next?

A. She was laying on the couch and my mom had a wash cloth on her head and...

Q. Yeah. What col-, wha-, what do you mean, was mom holding her or anything or just...

A. Yeah, just laying down and she had her hand over the head with the wash cloth.

Q. Yeah. Which part of her head?

A. Her right side.

Q. How, show me how mom had her hand?

A. Like this.

Q. Okay. Like that? Yeah? But that's your left side.

A. Just my _____ is my left.

Q. Oh, okay. What's your right?

A. This one. I keep my, _____ my ring and put in on my right finger.

Q. That's your right hand?

A. And that's my left. Wait a minute. If you give me a piece of paper and pencil, I can write better with one side than I can _____. What do I write?

Q. What hand is that?

A. Let me see, your left.

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Q. Okay.

A. This is my right hand.

Q. Okay.

A. 'Cause I can only do cursive and everything with this hand. I can't do anything with this hand.

Q. Yeah. Alright. So, did you a-, ho-, so you walk in and you see mom with her hand on...

A. Rachel's...

Q. And what do you say?

A. Mom what happened. She said that she got pushed out of the van.

Q. Where?

A. Where by, by the trailer.

Q. By who?

A. A little boy.

Q. Do you know what the little boy's name was?

A. No. But I have a feeling it is a boy named Brian in our trailer court.

Q. Uh, where's Brian live in your trailer court?

A. He lives, there's like, there's two trailers...

Q. Yeah.

A. ...okay there's a gray one and it's a little, little, kind of like little camper that you put on a little truck...

Q. Yeah.

A. ...and he lives there in those, both of 'em. Its like one's a fr-, playhouse or something...

Q. So, if I was to walk out your front door and walk out the gate and look straight ahead would I see that camper, is that one you're talking about?

A. You'd see a road...

Q. Yeah.

A. ...and you'd see like this little old, like, it looks like apartments which is a bathroom...

Q. Yeah.

A. ...so then you just go straight and you be like, _____ this big tree...

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16

Q. Yeah.

A. ...and you just go right across from it and you'll catch an eye of this camper and...

Q. Yeah.

A. ...you know the other ca-...

Q. Sittin' on the ground? What's his name?

A. Brian.

Q. Brian. How old's Brian?

A. Four.

Q. Brian's four. How do you know he's four?

A. I play with him a lot. _____ his mother, and...

Q. What's mom's, his mom's name?

A. Stephanie.

Q. Alright.

A. The reason I have a feeling he is 'cause he doesn't like her, he doesn't like anybody. He's jealous.

Q. So you think it's Brian but you don't know whether it's Brian. Okay. So, who tells you that she gets pushed out of the van, did she tell you, your sister tell you or does mom tell you?

A. My mom.

Q. Well when did m-, so what happened after that? After you said what happened and sh-, someone pushed her out of the van, what, what next?

A. My mom kept asking her to make sure it was that and she kept asking her about an hour later she finally said Barry hit her with a metal shoe bar.

Q. Yeah. Ho-, were you all still sitting there or did you get up and go do somethin'?

A. I was sitting there.

Q. Wha-, wha-, what else were you doin'?

A. Watching TV.

Q. What was on?

A. Part t-, no, Cape Fear.

Q. What?

A. Cape Fear.

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Q. Cape Fear? What channel does that come on?

A. It was on channel 11.

Q. Okay. Yeah. So you're watchin' that and you, how do you know mom kept askin' her who did this, who did this or...

A. I kept hearing her.

Q. Or di-, or di-, what did mom say exactly, do you know?

A. Rachel, who did it? Rachel, who did it? And she wouldn't leave her alone, she finally did. She kept saying a boy pushed her out of the van. A boy pushed her out of the van. And so _____ after an hour she just finally said Barry hit her with a metal shoe bar.

Q. What words did she say, do you remember?

A. Just what I just told you.

Q. Just what you just said? And have you ever seen this metal shoe bar?

A. H-, could of hid it under the board 'cause there's a big board, under the little box spring where he keeps stuff under there.

Q. Where? What do you mean there's a board with a box spring where he keeps stuff?

A. In his van.

Q. In his van there's a box springs in his van?

A. Well you know like the thing that holds the box springs, that little metal thing?

Q. Like a frame?

A. Yeah, the frame. He has that. He has a wood cover over it so you can't see in it and you can't, if you, it's so small you have to bend down and you can't really see it.

Q. Yeah. So how do you know? Have you seen this thing before?

A. The...

Q. Metal shoe bar?

A. N-, no but I...

Q. Th-...

A. ...he has a lot of stuff that junk that...

Q. So, is that the word she said, metal shoe bar? How do you know she meant, when I said to you is that the kind of thing you put your foot into when you go get shoes, how do you know that's what I meant? How do you know that's what she

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meant when she said Barry hit me with a metal shoe bar and I said gee what is that, is that something that when you go to try on shoes you put your sh-, foot in there and they measure your foot and you said yeah...

A. That's the only kind of a shoe bar there is. Or is there another kind?

Q. I don't know. How do you know it, how do you know that that's a metal shoe bar?

A. I was just guessing.

Q. Okay. What, so what else did mom say after she said Barry hit me with a metal shoe bar?

A. She goes, he's if he, she goes 'cause she really thought he did it and she goes he's...

Q. 'Cause he really what, I'm sorry?

A. ...she really thought he really did it.

Q. Who did?

A. My mom, my mom.

Q. How, how do you know she really thought Barry did it?

A. 'Cause she said I knew if he, well, we're gonna talk to him and if he said yes, then we won't see him again.

Q. Who did she say that to?

A. Rachel.

Q. How do you know?

A. I heard her.

Q. Why? How did you hear?

A. I was sitting right by her.

Q. Okay.

A. On the other couch.

Q. So what did Rachel say when mom said we won't see him again? What happened next?

A. Barry came home. She went out there with Rachel.

Q. Who's she?

A. My mom.

Q. Okay. When you say Barry came home and she went out there with Rachel, where was Rachel?

A. With my mom.

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Q. Where?

A. In my mom's arms.

Q. Where?

A. Out in the yard.

Q. Why was she out in the yard in your mom's arms?

A. Because she went with Rachel, my mom wen-, 'cause my mom always wants to know to find out if it truly happened or not and she brings whoever said that that really happened and tells, tells the somebody who didn't ask, say that, have 'em, I guess so she could tell Barry what Rach...

Q. Well did Barry come in the house when he came home?

A. On the van.

Q. I'm sorry?

A. He was in the van...

Q. And...

A. ...I guess putting stuff away.

Q. And your mom...

A. Went out there.

Q. With?

A. Rachel.

Q. In her arms?

A. Um, hm (yes).

Q. And she said, what?

A. She goes, Rachel tell Bar-, I think she said Rachel tell Barry what you said he did. She, I guess she said, you hit me with a metal shoe bar.

Q. What makes you think, why do you say you guess, where were you when this was goin' on?

A. Bedroom.

Q. Why did you go in the bedroom?

A. My mom told us to because we, they were gonna argue.

Q. Could you hear them arguing? You're shaking your head yes?

A. Yes.

Q. How could you hear them arguing if you were in the bedroom?

A. It's real close to the yard.

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Q. Okay. So what did Barry say?

A. Uh, no I did it, no I did it.

Q. What'd he say?

A. No I didn't.

Q. Well did he say it like you did now or does he, is he quieter than you're talking or how, or...

A. Its just like a regular, you know how they argue, yelling.

Q. They were yelling?

A. Yes.

Q. Okay. And where was Rachel when they were yelling?

A. In the yard.

Q. Where, how in the yard?

A. She, I guess she got put down.

Q. How do you know?

A. 'Cause when I went to the bathroom she was s-, standing up on the ground.

Q. So you went to the bathroom where?

A. Um, the back room, the before the back room there's a bathroom.

Q. Okay. Did yo-, how do you know she was standing in the yard?

A. Because when I walked through...

Q. Uh, huh (yes).

A. ...the door's right there...

Q. Right.

A. ...by the fireplace...

Q. Uh, huh (yes).

A. ...and so you can just see outside.

Q. So did you see her outside?

A. Um, hm (yes).

Q. What'd she have on?

A. Her feeted pajamas.

Q. Her feeted pajamas, did she have those on all day?

A. When I went there she did.

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Q. When you went where?

A. When I went back to my house.

Q. When you found her on the couch...

A. Um, hm (yes).

Q. ...she had 'em on after you came back from, okay. So you go to the bathroom and you come back, do you see Rachel?

A. They were in the living room.

Q. When you came out of the bathroom, who's they?

A. My mom, Rachel and Barry.

Q. What where they talkin' about?

A. Rachel.

Q. What were they saying?

A. She wanted to know then, she goes...

Q. Who's she?

A. ...my mom wanted to know why Rachel said that.

Q. And who was she talking to?

A. Barry.

Q. Okay. And so what did Barry say?

A. He goes, I don't know.

Q. Okay. And then what happened?

A. And they finally just gave up and Rachel was feeling tired and I guess my mom put her in her room and...

Q. You guess?

A. 'Cause when my mom went in the room to check on her that morning, Monday morning and...

Q. You gettin' tired, huh?

A. It's just a hard part to say. She kept saying, she was at the door and she goes, Rachel, Rachel wake up and she didn't, Rachel didn't move and, um, uh, I, 'cause I heard her at the door start Ra-, saying Rachel wake up and everything so I fell back asleep and, uh, my mom went on the bed...

Q. On what bed?

A. Rachel's bed.

Q. And where was Ra-, if I walk in your bedroom...

A. It would be the closest one to the wall.

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Q. Okay. The little one?

A. Right.

Q. 'Cause there, are there bunk beds right here?

A. Yeah.

Q. Okay. So it's this one right here?

A. Right by the bunk beds.

Q. Okay.

A. And the bunk beds are here...

Q. And that's her, that's Rachel's bed? Okay. How do you know Rachel was in that bed?

A. Because my mom's, mom, when I woke up, my mom was screaming Rachel, and my mom had Rachel, grabbing, shaking her by the arms and yelling Rachel wake up. She wouldn't wake up and so on the bed...

Q. Okay. You're doin' a good job. It's hard, huh? Yeah. Um, do you remember what time you went to bed last night, I mean, uh, Mon-, Sunday night?

A. Probably around 9:30.

Q. Okay. And where wa-, where was Rachel when you went to bed?

A. The couch.

Q. Okay. And was she plannin' on comin' to be-, did mom plan on her goin' to bed or anything? You don't know?

A. _____.

Q. Did Rachel, do you know if Rachel ever asked if she could sleep with mommy?

A. She might of when I was gone.

Q. Okay.

A. Or I mean...

Q. Do you know if anyone decided to take Rachel to the doctor Sunday night?

A. When it happened supposedly Barry rushed to the ambulance and supposedly the ambulance said that there really was nothing and they couldn't do nothing about it.

Q. Okay. Now ho-, you say supposedly, you don't know whether or not he took her?

A. I don't believe him.

Q. You don't believe him, why?

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- A. Ambulance can do everything.
- Q. Okay. Um, now, so you heard someone say that Barry took her to the, but you never saw him take her?
- A. No.
- Q. Did you, did you hear Barry and mom talk about whether or not he took her?
- A. No.
- Q. Okay.
- A. One of my mom's friends came over and, um, I guess my mom was up and she, _____ took her to the hospital because she got, you should have seen Barry ra-, rushing Rachel to the ambulance station?
- Q. Who was this?
- A. My mom.
- Q. Your mom said that to who?
- A. One of her friends. I have no idea.
- Q. Do you know who the friend was?
- A. Or she might have been talking to Barry.
- Q. Oh, okay. I'm confused.
- A. So am I.
- Q. Okay. Alright. So, um, tell me something, has Barry ever hit you?
- A. No.
- Q. How come? Has he ever hit your brother?
- A. No.
- Q. How come?
- A. I have no idea.
- Q. Has he ever hit your mom?
- A. No.
- Q. Has he ever hit Rachel that, have you ever seen him hit Rachel?
- A. No.
- Q. Okay. Um, does Barry have any kids?
- A. Yes.
- Q. Who?

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A. One girl.

Q. What's her name?

A. Brandie Jones.

Q. Where does she live?

A. She's I guess staying at her uncle's right now.

Q. Where did she live before she stayed with her uncle?

A. With her dad.

Q. And you?

A. Um, hm (yes).

Q. Did he ever hit her?

A. No.

Q. How come? Did you ever see him get mad?

A. Um, hm (yes).

Q. What happens when he gets mad?

A. He yells.

Q. Okay. Anything else?

A. No.

Q. Alright. Um...

A. He takes it very calm and he yells and he just walks and goes to his friends house and talks to his friends, that calms him down and he comes back.

Q. Now you came her today 'cause you had all this to tell us, tell me and you did a really, really good job. Who told you to tell me these things? Did anybody tell you what to say? You shakin' your head no?

A. No.

Q. Who are you stayin' with now?

A. My Aunt Donna.

Q. Did you and Donna talk about, Aunt Donna talk about...

A. She said that, um, I, you were gonna talk to me and she said I should tell the truth and give all the information I could.

Q. Okay. And what did you say?

A. Okay.

Q. Alright. And, um, how's it going there at Aunt Donna's

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house?
A. Good.

Q. Okay. If you could live anywhere you wanted to live, where would it be?

A. My Aunt Donna's.

Q. How come?

A. It's a big place. We do a lot of things together.

Q. She pretty nice? Yeah? Who else do you get to live there with?

A. Her husband and her little pig.

Q. She has a pig? Cool, what's the pig's name?

A. Tippy.

Q. Tippy? What kind of a pig is it? One of those pot bellied pigs, or...

A. Yeah.

Q. Really. Is brother there with you?

A. Um, hm (yes).

Q. Okay. And do you see Larry at all?

A. No.

Q. Okay.

A. I just see the family that my mom always wanted to see.

Q. You get to see the family that mom always wanted to see.

A. My mom was adopted.

Q. She was, when?

A. When she was about 10.

Q. How come?

A. My grandma Brown put her up for adoption but they couldn't, she was an old lady, she couldn't handle 'em and tried to give 'em a good family and she thought that the Grays family was a good family for 'em. This is the _____ family I'm staying with. But, um, I supposedly my mom would get beat every day.

Q. Really.

A. Before she went to bed.

Q. Huh, did she ever tell anybody? Yeah, okay. I have a question for you and then we're almost done. Um, do you

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Q. know the difference between a girl and a boy, right?
A. Yeah.

Q. Okay. And you know the difference, and do you know the difference in their private parts? Okay. Has anybody ever touched you or made you uncomfortable?

A. No.

Q. You sure?

A. Yes.

Q. Well wh-, what would you do if that happened to you?

A. I would tell somebody I trusted.

Q. And who would that be?

A. My Aunt Donna.

Q. And before your Aunt Donna who would of you of told?

A. My mom.

Q. Okay. Would you tell anybody else?

A. Maybe my Aunt Mandy.

Q. Okay. Okay. You did a really good job. I'm very proud of you. Yep, very proud of you. You're a good girl. Okay. I think we're done. Alright? That was pretty good, huh? You did good. I'm proud of you. You, uh, you okay?

A. Sure.

Q. Good. Alright.

WITNESS:

DETECTIVE DOWNING #813

TRANSCRIBED BY COREY L. HALGRIMSON, #3220 ON 05/09/94

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Exhibit 19

* Missing
Pg. 28

DATE: OCTOBER 31, 1994
PLACE: COUNTY ATTORNEY'S OFFICE

LB: LESLIE BOWMAN
DD: DAVID DARBY
AM: ARLENE MOORE
ME: MITCH EISENBERG
RL: REBECCA LUX

- 1 LB: It is monday morning, October 31, it's about 8:15 a.m. We're at the office of the
2 County Attorney. This is Leslie Bowman, I'm here in behalf of Barry Jones. Also
3 present is Arlene Moore from the County Attorney's Office, uh, David Darby uh, in
4 behalf of Angela Gray. Mitch Eisenberg from the County Attorney's Office, and we
5 are interviewing Rebecca Lux -- that L-U-X.
- 6 LB: Rebecca, would you just start out by telling me uhm, how long you knew Barry Jones.
- 7 RL: Two months.
- 8 LB: Two months? Uhm, so that would mean that you met him probably in March?
- 9 RL: Uh-huh.
- 10 LB: Okay. And how is that you, that you met him?
- 11 RL: My mom.
- 12 LB: Okay. You're mom was dating him, or something like that?
- 13 RL: (No audible response)
- 14 LB: Okay. Uhm, now when you first met him, you were living with just your mom and
15 your brother, and your little sister?
- 16 RL: (No audible response)
- 17 LB: Okay. Was, were there any other men living at your home?
- 18 RL: No.
- 19 LB: No? Okay. Uhm, and then at some point your family moved in with Barry and
20 Brandy?
- 21 RL: Uh-huh.

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1 LB: Do you remember about when that was?
2 RL: I think the first week of March.
3 LB: That was the first week of March?
4 RL: (No audible response)
5 LB: Okay. So the first time you met him, you were moving in to the trailer?
6 RL: (No audible response)
7 LB: Okay. Uhm, did you get to know Barry pretty well? Did he ever like, take care of
8 you?
9 RL: He gave us money and stuff.
10 LB: Okay. But if you needed something like, uh -- I don't know what -- if you were
11 hungry, who would, who would get you food.
12 RL: Probably Barry.
13 LB: Okay. Or if, uh, say like you needed some new clothes for school, or something, who
14 would help you with that?
15 RL: My mom.
16 LB: Okay. Uh, what if you had a, a problem, like if you were upset about something at
17 school, or something like that -- who would you tell?
18 RL: I'd tell Brandy.
19 LB: You talked to Brandy? So you and Brandy were pretty close? Did you consider
20 yourself kind of like sisters....
21 RL: Yeah.
22 LB:or more like friends?
23 RL: Sisters.
24 LB: Sisters?

02745

1 MI: Becky, when uh, you answer questions, try to say, "yes," or "no," because you're
2 nodding your head, "yes" a lot, but when you nod your head and don't say anything,
3 then the tape doesn't get anything -- so all we get is a lot of blank stuff and we don't
4 know what you said, okay? Can you try to....

5 LB: I don't know what to say, I'm just kind of nodding. Uhm, have you been able to see
6 Brandy since all of this stuff happened?

7 RL: No.

8 LB: Have you talked to her at all?

9 RL: No, I don't even know where she lives.

10 LB: Is that hard on you?

11 RL: Yeah.

12 LB: Uhm, can you -- I know this is going to be a hard interview for you, and if I ask you
13 something that you don't want to talk about, or that you're not comfortable with it,
14 you can tell me. Uh, but I want to go back to around the time of that week-end
15 before Rachel went to the hospital. Uh, let's start with Saturday, if you can
16 remember. Do you remember what went on that day?

17 RL: Yeah, uh, because we didn't have school, we all stayed in, and Brandy went to her
18 cousins house.....

19 LB: Who's her cousin?

20 RL: Tara.

21 LB: Oh, okay.

22 RL:and uh, so me, Johnny, and Rachel were left alone, and it was like, 12:00 o'clock
23 we decided, so we asked him to make a burrito for lunch -- and then, like 2:30, one
24 of Barry's friends came to the door at the back, asked us if he could talk to Barry
25 and asked us if we could let him in -- so I said all right.

26 LB: Is this now, Saturday, or Sunday?

27 RL: Saturday.

28 LB: Okay. Because Sunday is the day that uhm, Brandy went to Alicia's birthday party.
29 It wasn't that day?

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1 RL: No.....
2 LB: It was Saturday?
3 RL:it was Saturday.
4 LB: Okay. I'm sorry.
5 RL: And uh, so, about 2:30, or 3:00 he woke up, and then John, my brother asked him
6 if he could ride his bike -- then I asked. Then we both rode our bike and were
7 racing -- 3:00 o'clock, when he said -- 3:00 or 4:00, and he asked us -- he had told me
8 that he was going to take Rachel to go, to go with him to the -- friends house. Then,
9 then like 30 minutes after that, he came back and then he, like 15 minutes after that,
10 he went to his brothers.
11 LB: Okay. Let me back you up. Do you remember who the friend was who came over
12 to talk to Barry earlier in the day?
13 RL: Roger.
14 LB: Do you know Roger's last name?
15 RL: No.
16 LB: Okay. Uhm, and did Roger talk to Barry that day?
17 RL: Yes.
18 LB: He did? So, so someone woke Barry up?
19 RL: Yeah.
20 LB: Do you know who that was?
21 RL: I did.
22 LB: Okay. So, you went in and woke Barry up and said, "Roger is here," Barry got up,
23 talked to Roger for a while. Do you know about how long he talked to him?
24 RL: A couple of minutes.
25 LB: Okay. And did you hear about what they talked about?
26 RL: No.

02747

1 LB: Okay.

2 RL: Part of it.

3 LB: What, what was it?

4 RL: Because I guess one of his brothers was in jail and they had to bail him out.

5 LB: Oh, okay. Uhm, and then what? Barry went back in and went back to sleep?

6 RL: No, he stayed up.

7 LB: So, that was about noon, you said?

8 RL: No.

9 LB: Or was it later?

10 RL: Later.

11 LB: Okay. Do you -- I'm sorry, what time did you tell me it was?

12 RL: 2:30, 3:00.

13 LB: Oh, okay. So that's how Barry woke up, and then he stayed up from then on?

14 RL: Yes.

15 LB: Okay. And you said that you and Johnny asked him if you could go out and ride
16 your bikes. Was your mom there?

17 RL: Uhm, she was sleeping.

18 LB: Okay.

19 RL: She was sick.

20 LB: She was sick that day?

21 RL: Uh-huh.

22 DD: I'm sorry, what day was this? Saturday.

23 RL: Saturday.

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1 DD: Saturday?

2 LB: Uh, do you know why it was that Barry slept so late in the day, or is that typical?

3 RL: It's typical.

4 LB: Okay. So, Barry would usually sleep until after noon?

5 RL: Yeah, because he had a part-time job at -- the Goodman.

6 LB: What is that?

7 RL: That tire company.

8 LB: Oh, okay.

9 RL: And uh, he'd do that at night.

10 LB: Uh, and your mom was sick that day, so that's why she was sleeping. Would she
11 usually sleep that late? They slept pretty much late into the day?

12 RL: Uh-huh.

13 LB: So what would happen like on a school day, when, when you....

14 RL: They would wake up early.

15 LB: Okay. And help you guys get to school?

16 RL: Yes.

17 LB: So it was just on week-ends they would sleep late?

18 RL: (No audible response)

19 LB: Okay. Uhm, so, okay, then you and Johnny went out and were riding bikes, and that
20 kind of thing?

21 RL: Yes.

22 LB: And Barry told you that he was going to.....

23 RL: Friends house.

02749

1 LB:take Rachel to his friends. Do you know what friend?
2 RL: No.
3 LB: Okay. Uhm, so, say at a time like that, where Barry's gone and your mom is in there
4 sleeping, if you needed something, what would you have done?
5 RL: We would have woke our mom up.
6 LB: Okay. Uhm, then you said Barry came back about a half hour later, and then what
7 happened?
8 RL: Then a few minutes he came back, he told me that he had to go to the store.
9 LB: Okay. And did he?
10 RL: Yes.
11 LB: Did he go by himself?
12 RL: No, with Rachel.
13 LB: He took Rachel. And what was Barry driving that day when he was going to his
14 friends and to the store?
15 RL: His brother's yellow van.
16 LB: Okay. Is there anything unusual about that van?
17 RL: No.
18 LB: Just a regular old van?
19 RL: Yeah, and there's a box where stuff are put in, but nobody knows what it is.
20 LB: A box of stuff?
21 RL: Yes.
22 LB: Inside the van?
23 RL: Yeah.
24 LB: But nobody knows what's in it?

1 RL: (No audible response)

2 LB: Oh, kind of mysterious. Uhm, do you know about how long Barry was gone to the
3 store?

4 RL: Probably an hour.

5 LB: Okay. And then he came back. Did he have groceries or something like that?

6 RL: Yeah.

7 LB: Okay. Uhm, so did you spend any time with Rachel that day?

8 RL: Nooo.

9 LB: Did you have an opportunity to see her?

10 RL: Yeah.

11 LB: I mean, to talk to her, off and on that day?

12 RL: Yes.

13 LB: Okay. And how did she seem to you?

14 RL: Normal.

15 LB: Normal? Okay. Uhm, did she want to go with Barry, or did she just have to go
16 because she was little and couldn't stay home?

17 RL: I think it is because she had to go.

18 LB: Okay. But did, did she resist? Did she cry? Did she tell you, "I don't really want
19 to go,?" or anything like that?

20 RL: No.

21 LB: Okay. Did she seem like she was okay with going with him?

22 RL: Yes.

23 LB: And, you said she seemed, "normal," did you notice like, did she had black eyes, or
24 any bruises or....

02751

1 RL: No.

2 LB: Nothing like that?

3 RL: (No audible response)

4 LB: And uh, this was in like May, so it was pretty warm weather. Do you remember
5 what kind of clothes she was wearing?

6 RL: She had on white pants, and a white T-shirt.

7 LB: Okay. White pants...long pants?

8 RL: (No audible response)

9 LB: And a white T-shirt? Okay. Uhm, when they got back from the store, did you have
10 a chance to, to see Rachel?

11 RL: Yeah.

12 LB: She still seemed okay?

13 RL: Uh-huh.

14 LB: She wasn't crying or anything?

15 RL: (No audible response)

16 LB: And still didn't have any bumps or bruises....

17 RL: No.

18 LB:or anything like that? Okay. Uhm, and did you have a time when you talked to
19 her?

20 RL: Yeah.

21 LB: What, what did you guys talk about?

22 RL: Uh, no, I just said, "hi," and Rachel said, "hi."

23 LB: Okay.

02752

1 RL: And uh, I had already asked -- because the reason I said -- because I had asked my
2 mom if I could go to my friends house....

3 LB: Uh-huh.

4 RL:to play. She said, "yeah," and like, when I went back -- there was Rachel.

5 LB: Oh, okay. Uh, what friends house did you go play?

6 RL: Susie's.

7 LB: Do you know her last name?

8 RL: No.

9 LB: Does she live around the trailer park?

10 RL: Yeah.

11 LB: So you can just walk right over there?

12 RL: Yes.

13 LB: Okay. And uh, when was the first time that you saw you're mom that day?

14 RL: When I got back.

15 LB: From your friend's?

16 RL: Yes.

17 LB: So your mom was up then, or was she still kind of sick, or feeling better?

18 RL: She was feeling better.

19 LB: Okay. And uh, so when you came back, and Rachel was there, and your mom was
20 up, and all that -- what went on at the trailer?

21 RL: Rachel was laying down and her head was bleeding.

22 LB: Okay. Did you figure out why, or ask anybody why?

23 RL: No, I was just waiting for an answer, because my mom kept asking Rachel, and
24 asking her.

02753

1 LB: And was Barry there while your mom was asking her?
2 RL: He left like, the first time she asked.
3 LB: Uh-huh. And what -- did Rachel answer?
4 RL: No.
5 LB: Okay, so....
6 RL: Not for a long time, but she did.
7 LB: And what did she say?
8 RL: Like at 8:00 o'clock, she said, "Barry hit me with a metal shoe bar."
9 LB: What's a metal "shoe bar?"
10 RL: I have no idea.
11 LB: But, those were the words that she used?
12 RL: Uh-huh.
13 LB: A metal shoe bar? Huh! Uh, and your mom was there when she said that?
14 RL: Yes.
15 LB: Who else was there?
16 RL: Brandy.
17 LB: Okay. Was Johnny there?
18 RL: Yeah.....in his room playing Nintendo.
19 LB: Okay, so he didn't really uh, know what Rachel said?
20 RL: (No audible response)
21 LB: And uh, did your mom ask Rachel any other questions about that?
22 RL: She asked again, and she said it again. And then she -- then they, Barry and -- when
23 Barry came back they argued a lot.

02754

1 LB: Okay. Well, your mom was probably upset to think that Rachel got hit by Barry.
2 Uhm, when they argued, were, were all of you kids there?

3 RL: (No audible response)

4 LB: Okay. Did you hear what they said to each other?

5 RL: Yes.

6 LB: And....

7 RL: Some of it.

8 LB: So, did your mom ask Barry, "What happened?" Or did she say what Rachel told
9 her?

10 RL: She said, "Why did -- Rachel told me that you hit her across the head, and she has...."
11 "No, I didn't." So they argued about -- from there.

12 LB: Okay. Uh, and did they ask Rachel again, "what happened," like in front of Barry,
13 or something?

14 RL: Yeah.

15 LB: And did she still say that he hit her?

16 RL: Yes.

17 LB: Okay. So Barry heard her say that he, that he hit her?

18 RL: Yes.

19 LB: Okay. And how did the argument end, or what happened?

20 RL: I have no idea, I was asleep.

21 LB: Oh, so it went on and on unto the night?

22 RL: (No audible response)

23 LB: Okay. What time did you go to sleep?

24 RL: Nine o'clock.

02755

1 LB: And they were still arguing?

2 RL: (No audible response)

3 LB: Okay. Uhm, when you saw Rachel with her uh, with her head bleeding, did you have
4 a chance to talk to Rachel?

5 RL: (No audible response)

6 LB: No? Okay. So you just like kind of listening in on your mom, and Barry, and
7 Rachel?

8 RL: (No audible response)

9 LB: All right. Uhm, that night when you went to sleep, did you sleep all through the
10 night.....

11 RL: Uh-huh.

12 LB:or did you wake up during the night?

13 RL: All through the night.

14 LB: And did you hear anything unusual, any unusual noises, or anything during the night?

15 RL: No.

16 LB: Okay. And then, uh, what time did you wake up the next morning?

17 RL: Six thirty.

18 LB: Okay. It was a school day?

19 RL: No.

20 LB: It was Sunday, the next day?

21 RL: Yes.

22 LB: Okay. Uh, do you always wake up that early?

23 RL: Oh, it was a school day.

02756

1 LB: It was a school day? Okay. It's, I think you might be confusing Saturday with
2 Sunday.

3 RL: Yes.

4 LB: Which is okay. That's fine. So the next day was a school day, which was Monday,
5 and you woke up at 6:30. Do you wake up yourself, or does, do one of the adults
6 usually do.

7 RL: There's an alarm, there's an alarm that goes off -- and it went off -- I woke up
8 because my brother, he has -- the bus comes and picks him up at 6:45 in the
9 morning. See, so I have to wake up at 6:30, when the alarm goes off for him.

10 LB: Okay. And so every, all the other kids just kind of wake up?

11 RL: Yes.

12 LB: All right. Uhm, and when you woke up, what was going on?

13 RL: Rachel was lying down on the floor.

14 LB: On the floor?

15 RL: Yeah.

16 LB: Was that before your mom....

17 RL: Yeah.

18 LB:went to see her? Uh, where on the floor and what area of the trailer was she?

19 RL: In the bedroom, right by her bed.

20 LB: In her, by her bed?

21 RL: Bed, yeah, it's like somebody picked her up from her bed, and put her on the floor.

22 LB: Hum...okay. Uh.....

23 RL: So I picked her up and put her back on the bed, and she felt like a regular, normal
24 child.

25 LB: Okay. And when you say, "regular, normal child," like someone who's just sleeping?

02757

11 RL: Yes.

2 LB: Okay. Uhm, so she felt like warm, I mean.....

3 RL: Yes!

4 LB:like you do now?

5 RL: Yes.

6 LB: Okay. Uh, and, what was she wearing?

7 RL: Her.....those feety (ph) pajamas.

8 LB: Okay. Uh, did you notice anything unusual about her, except that she was on the
9 floor?

10 RL: No.

11 LB: Okay. Was her head still bleeding?

12 RL: It stopped.

13 LB: Okay. Uhm, and then after you put her back in her bed, what happened after that?

14 RL: I felt her head -- it was cold. I though she was cold because they keep the cooler
15 on....

16 LB: Uh-huh, okay.

17 RL:all night through the morning. So I was thinking, it was just the cooler, so then
18 I went back to sleep.

19 LB: Okay. And what was the next thing you remember happening?

20 RL: My mom yelling at Rachel to get up.

21 LB: Okay. Uh, and then, I guess they took off pretty quick to....

22 RL: Uh-huh.

23 LB: the hospital? Okay. And you and Brandy stayed at the trailer?

24 RL: Yes.

02758

- 1 LB: Okay. Uhm, what were you thinking was going on at that time?
- 2 RL: I thought she had just gone and fell into unconsciousness, and that they would bring
3 her back and -- Brandy thought, at first Brandy thought that she had got kidnapped.
- 4 LB: Because they were yelling so much, or something?
- 5 RL: Yeah, because she didn't -- she wasn't there that night, to see what happened.
- 6 LB: Oh, uh-huh. Okay. Uhm, Becky, has, has Barry ever uhm, like discipline you, you
7 know, told you, "don't do this, or do that," or something like that?
- 8 RL: Yes.
- 9 LB: And uh, is your mom usually there?
- 10 RL: Yes.
- 11 LB: So, even if your mom is there, Barry might have told you what to do?
- 12 RL: Yes.
- 13 LB: Okay. Uh, if it was something that you didn't like, would your mom step in and, you
14 know, say, "well, I don't care if she eats her whole dinner, or not?" Or, or would
15 Barry's word go?
- 16 RL: Sort of fifty, fifty.
- 17 LB: Okay. So your mom also would tell you what to do, and discipline you?
- 18 RL: Uh-huh.
- 19 LB: Did either of them use like spankings, or hitting you to discipline you?
- 20 RL: No, my mom did before we moved in with Barry.
- 21 LB: Uh, and what would that be like? I mean, some parents use a wooden spoon, or a
22 belt, or they just spank you on your behind, or something. What, what did your mom
23 usually discipline you....how?
- 24 RL: When I would get into trouble, she'd kick me off the chair and stuff.
- 25 LB: When you say, "kick you," do you mean with her foot?

02759

1 RL: Yeah.

2 LB: Okay. Uhm, did that happen a lot?

3 RL: (No audible response)

4 LB: Well, you nodded your head.

5 RL: Yes.

6 LB: Yes, okay. Uh, and was that just you, or was it with the other kids too?

7 RL: It was just me.

8 LB: Your mom, do you and your mom get along, or do you think you....

9 RL: (No audible response)

10 LB: No? You had problems getting along with your mom?

11 RL: Yes.

12 LB: Uhm, did Barry every discipline you like, you know, with a spanking or hitting.....

13 RL: No.

14 LB:or anything like that? Uh, what did he do if he'd lost his temper?

15 RL: He would just tell us to go to our room.

16 LB: Uhm, was there lot's of yelling?

17 RL: Yeah.

18 LB: From Barry?

19 RL: (No audible response)

20 LB: Was that scary?

21 RL: No.

22 LB: Well, just regular adults yelling.....

02760

11 RL: Yeah.

2 LB:like we all do, I guess. Okay. Uh, did you feel like Barry cared about you?

3 RL: Sometimes.

4 LB: Was he ever nice to you?

5 RL: Yes.

6 LB: Okay. That uh, that night that Rachel had her head cut, was there anything that let
7 you uh, know that she wasn't feeling to well?

8 RL: Because they tried to give her a drink or give her food, and she keep throwing up.

9 LB: Okay. Uhm, did it seem like she really felt awful or, was it just sort of.....

10 RL: She looked awful.

11 LB: She did? Okay. Was she crying?

12 RL: Yes.

13 LB: Did anybody talk about taking her to the doctor?

14 RL: Well, my mom said Barry did take her to the hospital, and they said they couldn't do
15 nothing about it.

16 LB: Okay. Uhm.....

17 RL: Because there are paramedics -- that Kino Fire Department.....

18 LB: Right.

19 RL:where as you walk down the street and there it is.

20 LB: Okay, so that's real close to the trailer?

21 RL: Uh-huh.

22 LB: Uh, so your mom thought she already went to the doctor, so she figured she might
23 as well not take her?

24 RL: Yeah.

02761

02762

1 LB: Okay. So now that you know that that was Sunday, can you think back to what
2 happened the day before that?

3 RL: (Unintelligible)

4 LB: Okay, just -- what do you guys usually do on Saturday's?

5 RL: We play around in, go outside and.....

6 LB: Okay. So you pretty much stick close to home and.....

7 RL: Yes.

8 LB: Yes. Were there a lot of kids in your trailer park?

9 RL: Yes.

10 LB: And do you play with them?

11 RL: Yes.

12 LB: Okay. Uhm, other kids just kind of out and about playing, and then when someone
13 needs something, they could go to their parents, or go home, or whatever -- or are
14 there adults out there supervising you?

15 RL: There are usually adults out there.

16 LB: Okay. Now, have you heard the, the story that Rachel -- of how Rachel cut her
17 head.....and what was it that you heard?

18 RL: She told, no.....okay, uhm, I heard that Barry had hit her across the head with a
19 crowbar.

20 LB: Okay. You didn't hear anything about this thing about falling out of the van, and all
21 that?

22 RL: From Rachel, yeah. The first couple ones, because Barry told her not to tell.

23 LB: Okay. So the first couple of times, when your mom said, "what happened.....?"

24 RL: Yes, she said, "the boy pushed me out of the van."

25 LB: Okay. But then when your mom kept asking and asking, she finally said that Barry
26 hit her? And why do you think.....

1 RL: Yes.

2 LB:Barry told her not to tell?

3 RL: I don't know.

4 LB: You're just guessing because she didn't tell right away?

5 RL: Yes.

6 LB: Okay. Has Barry ever done anything, or told you anything, and told you not to tell?

7 RL: No.

8 LB: Okay. Or how about your uh, your brother Johnny? Have you ever heard Barry
9 telling him anything, and telling him not to tell?

10 RL: No.

11 LB: Okay. Do you know any of the kids in the trailer park that Rachel played with?

12 RL: No. They were all little kids.

13 LB: Okay. So you wouldn't spend any time with them? But....

14 RL: Sometimes.

15 LB: You would? Have you seen, and you've seen her playing with these little kids?

16 RL: Yes.

17 LB: Did she have a lot of friends?

18 RL: Yes.

19 LB: Okay. And uh, were they girlfriends, or boyfriends?

20 RL: I'm sure both.

21 LB: All right. All different kinds of kids?

22 RL: Yes.

23 LB: Were uh, were most of them bigger or smaller than Rachel?

02763

- 1 RL: Usually a little bit bigger in age, and probably smaller in size.
- 2 LB: Okay. Did the kids play rough?
- 3 RL: Sometimes.
- 4 LB: Just like any kids, I guess.
- 5 RL: Yeah.
- 6 LB: But Rachel liked them, and liked playing with them?
- 7 RL: Yes.
- 8 LB: Okay. Did she ever come home crying like you know, that she got hurt, or got
9 pushed down, or....
- 10 RL: Yes.
- 11 LB: Yeah.....and you think it was just regular little kid stuff, or did she ever really get
12 hurt?
- 13 RL: She always fell down. I remember that she'd come home crying.
- 14 LB: Okay. What would happen when she'd home crying?
- 15 RL: Well, my mom would think it would be something serious, so she'd take her into the
16 bathroom and check if she had any bruises.
- 17 LB: Okay. So your mom pretty much would check her out, and just make sure she was
18 okay, and then.....
- 19 RL: Yes.
- 20 LB:and then send her back out to play, or something?
- 21 RL: Yes.
- 22 LB: Now, I understand you were a real good helper with Rachel, and that a lot of times
23 you kind of took care of her?
- 24 RL: Yes.
- 25 LB: Uh, did you like help her get dressed in the mornings, and that kind of thing?

02764

1 RL: Sometimes.

2 LB: Sometimes? And what about helping her with bath-time, and that sort of thing?

3 RL: Most of the time.

4 LB: Most of the time, that's nice. Uhm, so when you were like helping her with the bath,
5 or helping her get dressed, or anything -- did you ever notice any unusual bruises or
6 cuts, or scrapes, or anything like that?

7 RL: No. There's one when she got her hand print. I guess my mom had spanked her....

8 LB: Uh-huh.

9 RL:because she did something bad, and it bruised.

10 LB: Where was that hand print?

11 RL: On her butt.

12 LB: Do you know when that was? Was that when you guys were living with Barry?

13 RL: Yeah, like in April.

14 LB: Okay. So, did your mom use spanking for discipline?

15 RL: For Rachel.

16 LB: For Rachel she did?

17 RL: (No audible response)

18 LB: Okay. Was it mostly a spank on the butt, like that?

19 RL: Yeah.

20 LB: Okay. Not like with you where she'd use her foot, or kick you?

21 RL: Not like with me.

22 LB: Okay. And what about Johnny, did he ever get spanked, or anything?

23 RL: Yes.

02765

1 LB: He did too?

2 RL: (No audible response)

3 LB: Uh, and what kind of spankings were those?

4 RL: Same thing that Rachel got.

5 LB: On the butt?

6 RL: (No audible response)

7 LB: Did you, are you the one who uh, sort of got on your mom's nerves more than the
8 other kids, or something?

9 RL: Yeah.

10 LB: Okay. I'm not saying it's your fault, but....okay. Uhm, when Rachel got spanked by
11 your mom, did she cry?

12 RL: Yes.

13 LB: She took it seriously?

14 RL: Yes.

15 LB: Okay. And was it usually, like one spank to try and get her attention, or....

16 RL: Yes.

17 LB:would she be spanked over and over?

18 RL: Just one spank.

19 LB: Okay. Uhm, I think that's all I've got for now. I'm going to let Mr. Darby have
20 some questions, okay? Thank's Rebecca.

21 RL: You're welcome.

22 DD: Uh, Rebecca, I'm just going to ask you some general questions, and then I'm going
23 to ask you some specific questions about what happened on Saturday and Sunday.
24 The times that, the time that you and uh, your mom, and Rachel, and Johnny were
25 living with Barry, did Barry ever hit you?

02766

1 RL: No.

2 DD: Did he ever hit uh, Rachel?

3 RL: Yes. Always spankings.

4 DD: All right. All right. So, spank....describe for me a, a, a spanking that you recall that
5 Barry might have given Rachel?

6 RL: A little whack on the behind.

7 DD: Okay, when you say, "a little whack," just....

8 RL: Yes.

9 DD: Did, did he hit her and knock her down, or did he -- or, how was it? How do you
10 recall?

11 RL: He never hit her and knocked her down.

12 DD: Okay. Describe this for me, if you can.

13 RL: It was a little light one.

14 DD: With his hand?

15 RL: Yes.

16 DD: Would he have a hold of her arm when he would swat her on the butt?

17 RL: Yes.

18 DD: Did she cry?

19 RL: Yeah!

20 DD: Okay. Were you able to hear, hear it when his hand hit her butt?

21 RL: No.

22 DD: Okay. Were you there -- did you see it?

23 RL: Sometimes.

02767

1 DD: Okay. Uh, the ones that you saw -- yourself, okay, when you saw Barry uh, uh, swat
2 Rachel on the butt, were you able to hear those?

3 RL: No.

4 DD: All right. Uhm, were you close by when this happened?

5 RL: Yeah.

6 DD: All right. Did Barry say anything to Rachel when this was going on.....when this
7 happened?

8 RL: No. He'd just tell her, "don't do it again."

9 DD: Who told him?

10 RL: Barry.

11 DD: Told Rachel not to do it again?

12 RL: Yes.

13 DD: Okay. Do you have any idea what it was that Rachel did that Barry swatted her on
14 the butt for?

15 RL: Probably broke -- got into something of Barry's, or something.

16 DD: Is that usually why Barry would discipline Rachel, or swat her on the butt, because
17 she got into something that was his?

18 RL: Yes.

19 DD: All right. But he never, he never hit you, or swatted you on the butt?

20 RL: No.

21 DD: Okay. Uhm, if, do you recall ever disciplining you, telling you to go to your room,
22 or....

23 RL: Yes.

24 DD: Okay. Did that happened?

25 RL: Yes.

02768

1 DD: It happened a lot.....when you were with Barry?

2 RL: I'd usually, because -- it happened a lot with Brandy, but I used, I usually stick up for
3 her, so I'd get the discipline too.

4 DD: Also, because, when she would get in trouble, you essentially both would get in
5 trouble just because you guys were pals?

6 RL: Yes.

7 DD: Okay. Uh, kind of, if you could, uh..... No, no, not, not, don't play with it because by
8 touching it, it makes it, it makes it have a little -- it will make it have scratchy noises
9 on the tape. So, if you can just kind of not grab hold of it. Okay. How, how many
10 times, how many times would you say, if you can recall, uh, in the two, two or three
11 months that you lived with Barry, did he discipline you, or send you to your room,
12 or do something to you that you felt like he was disciplining you?

13 RL: Probably once every two weeks.

14 DD: Okay, so, would it be safe to say, maybe three, or four times in that uh....

15 RL: Yeah.

16 DD:in that two, or three month period?

17 RL: Yes.

18 DD: All right. Did you ever see Barry hit Brandy?

19 RL: (No audible response)

20 DD: How would he hit her?

21 RL: The same way he would hit Rachel.

22 DD: Swat her on the butt?

23 RL: Yes.

24 DD: How old is Brandy?

25 RL: 11.

26 DD: Okay, and, and how old are you?

02769

1 RL: 11.

2 DD: Okay. So, he would treat the bigger kids the same way he would treat the little kids,
3 the smaller kids?

4 RL: Only if we did something real bad.

5 DD: Okay. Uh, when he would swat Brandy on the butt, did he knock her down?

6 RL: No.

7 DD: Okay. Uh, did he ever, did he ever hit uh, Johnny or swat Johnny on the butt?

8 RL: No.

9 DD: Okay.

10 RL: He was to tall for him.

11 DD: Johnny is a pretty big kid, isn't he?

12 RL: Yes.

13 DD: Okay. What about, what about your mom, did you ever see Barry hit your mother?

14 RL: No.

15 DD: All right. Uhm, now, you, you told Miss Bowman when you were talking to her, that
16 your mom when she disciplined you, that she would kick you?

17 RL: Yes.

18 DD: All right. Why don't describe that for me, how, how that would happen?

19 RL: If I came home late and -- well, I'd be doing my homework and she, she always has
20 this -- when we get home, do our homework, then you can do your chores -- which
21 I don't have a lot of them, so. I'd do my homework, and she would kick me off the
22 chair when she got mad.

23 DD: All right. Describe, what kind of chair was it? Do, do you know?

24 RL: The table chairs.

25 DD: It's a regular table chair?

02770

1 RL: 11.

2 DD: Okay. So, he would treat the bigger kids the same way he would treat the little kids,
3 the smaller kids?

4 RL: Only if we did something real bad.

5 DD: Okay. Uh, when he would swat Brandy on the butt, did he knock her down?

6 RL: No.

7 DD: Okay. Uh, did he ever, did he ever hit uh, Johnny or swat Johnny on the butt?

8 RL: No.

9 DD: Okay.

10 RL: He was too tall for him.

11 DD: Johnny is a pretty big kid, isn't he?

12 RL: Yes.

13 DD: Okay. What about, what about your mom, did you ever see Barry hit your mother?

14 RL: No.

15 DD: All right. Uhm, now, you, you told Miss Bowman when you were talking to her, that
16 your mom when she disciplined you, that she would kick you?

17 RL: Yes.

18 DD: All right. Why don't describe that for me, how, how that would happen?

19 RL: If I came home late and -- well, I'd be doing my homework and she, she always has
20 this -- when we get home, do our homework, then you can do your chores -- which
21 I don't have a lot of them, so. I'd do my homework, and she would kick me off the
22 chair when she got mad.

23 DD: All right. Describe, what kind of chair was it? Do, do you know?

24 RL: The table chairs.

25 DD: It's a regular table chair?

02771

1 DD: All right. Well, was her voice raised, was she yelling?
2 RL: Yes.
3 DD: All right. And uh, and how long would these uh, would these kicking sessions last?
4 RL: Couple of hours.
5 DD: She would kick you for a couple of hours straight?
6 RL: No, she'd hit me.
7 DD: She would hit you?
8 RL: Yes.
9 DD: With her hands?
10 RL: Yes.
11 DD: And not kick you?
12 RL: She'd kick and hit me.
13 DD: Kick and hit you?
14 RL: (No audible response)
15 DD: All right. And how often would these things happen?
16 RL: Every other day.
17 DD: Every other day?
18 RL: Because I had to pick-up a friend of mine -- and like she stays after school to help
19 her teacher, so....I usually have to be home by 3:15, but, she doesn't get out until
20 3:15, so I get there by 3:30.
21 DD: Okay. So, so your, so your mother kicks you and hits -- well, back when you were
22 living with Barry, would she, would your mother kick you every other day when you
23 were living with Barry?
24 RL: No.

02772

1 DD: All right. When was the last time that you recall your mother hitting you, and
2 kicking you?

3 RL: Before we moved -- the day before we moved in with Barry.

4 DD: Okay. So when you moved in with Barry....

5 RL: It stopped.

6 DD:your mom stopped kicking you, and hitting you?

7 RL: Yes.

8 DD: Was there anybody else around when your mom was kicking you and hitting you?

9 RL: No.

10 DD: Rachel wasn't there? Was she there?

11 RL: Yeah, Rachel was.

12 DD: What about Johnny?

13 RL: He didn't come home yet.

14 DD: Johnny was never there?

15 RL: Sometimes.

16 DD: Okay. So the only person that was ever there, when your mom was kicking you, and
17 hitting you, was Rachel?

18 RL: And sometimes Johnny.

19 DD: And sometime Johnny?

20 RL: (No audible response)

21 DD: All right. You know a man by the name of Zollie?

22 RL: Yes.

23 DD: That's who your mom and you all were living with before you moved in with Barry?

02773

1 RL: Yes.

2 DD: All right. Was Zollie ever there when your mother hit uh, when your mother would
3 kick you, or hit you?

4 RL: No.

5 DD: All right. Did Zollie ever hit you?

6 RL: No.

7 DD: Did Zollie ever hit any, every hit Rachel?

8 RL: No.

9 DD: What about Johnny?

10 RL: No.

11 DD: What about Angela -- your mom?

12 RL: Yes.

13 DD: Zollie would hit your mom?

14 RL: Yes.

15 DD: How often would you see -- did you see Zollie -- how often did you see Zollie hit
16 your mother?

17 RL: Everyday. He'd get drunk.

18 DD: And beat her up?

19 RL: (No audible response)

20 DD: Uh, okay. Describe for me how your, your mom would appear, look like after Zollie
21 hit her?

22 RL: Bruises on her legs, and her face.

23 DD: Okay. And describe for me, if you can -- well, let me ask you this, did you ever see
24 Zollie beating up your mother?

02774

1 RL: Yes.

2 DD: All right. Describe for me what, what you recall about the, the beating, those
3 beatings?

4 RL: He'd put her against the wall, put her in the sink and.....punch her and stuff.

5 DD: Would he punch her with his fists?

6 RL: Yes.

7 DD: And where would he hit her?

8 RL: In the stomach, and the legs, and stuff.

9 DD: Would he ever hit her in the face?

10 RL: Yes.

11 DD: Did you ever see your mom with any bruises or black eyes?

12 RL: Yes.

13 DD: Okay. And was this a pretty regular thing before you moved in with Barry?

14 RL: Sometimes.

15 DD: That, that you would see that Zollie hit your mother before....?

16 RL: Yeah, uh, we only stayed with Zollie for two years, then they broke up.

17 DD: Okay. And for this two year period, did Zollie uh, uh, hit your mother on a regular
18 bases?

19 RL: Yes.

20 DD: You say he would get drunk and, and beat her up?

21 RL: Yes.

22 DD: Okay. But he never did hit -- he didn't hit any of the kids?

23 RL: No.

02775

1 DD: All right. Rebecca, did you ever get any bruises, or any cuts from these times when
2 your mother would kick you, and.....

3 RL: Bruises.

4 DD: Bruises?

5 RL: (No audible response)

6 DD: Where would the bruises be?

7 RL: On my legs.

8 DD: On your legs?

9 RL: (No audible response)

10 DD: So your mother would kick you on the legs?

11 RL: (No audible response)

12 DD: All right. Did you ever go to the doctor, or to the hospital for that?

13 RL: No.

14 DD: No. Did you ever tell anybody about that?

15 RL: No.

16 DD: Did you ever -- have you ever said that to anybody before you told us about it today?

17 RL: Uh, the two people I got interviewed with.

18 DD: The police department?

19 RL: Yes.

20 DD: The police officers. You told them?

21 RL: Yes.

22 DD: Okay. What about -- let's see, I guess Donna Marini is uh, is your aunt?

23 RL: Uh-huh.

02776

1 DD: Okay. Have you talked to her about uh, uh, your mom.....
2 RL: Yes.
3 DD:kicking you off chairs?
4 RL: Yes.
5 DD: When did you talk to her about that?
6 RL: A long time ago, when I first moved in with her.
7 DD: But this was after Rachel died, right?
8 RL: Yes.
9 DD: Okay. You never did tell her about it before?
10 RL: No.
11 DD: Okay. Did you ever spend any time with uh, with you aunt Donna before uh, you
12 moved in with her?
13 RL: Sometimes.
14 DD: Go and visit?
15 RL: Yeah, she'd come around Christmas and, we'd go around her trailer park and see all
16 those Christmas lights, and stuff.
17 DD: Okay. Did she ever come -- did she ever come and visit you when you were living
18 with Zollie?
19 RL: Yes.
20 DD: All right. Did uh, and when you, when she would come and visit you, you never --
21 did you ever tell her, or talk to her about uh....
22 RL: No.
23 DD:about your mom hitting you?
24 RL: No.

02777

1 DD: How come?

2 RL: I didn't know her that well.

3 DD: How come, how come you didn't tell anybody about your mom hitting you?

4 RL: Because she said, my mom said, "If I told anybody, I wouldn't see Rachel and Johnny
5 again."

6 DD: She told you that?

7 RL: (No audible response)

8 DD: All right. Did you ever see your mom hit Rachel?

9 RL: No, just spankings.

10 DD: Well, let's, let's talk about those spankings. Did, would it be like a swat on the butt?

11 RL: Yes.

12 DD: And, and how many times have you ever seen your mom swat Rachel on the butt?

13 RL: Once, that Rachel got in trouble.

14 DD: Okay. So it would be just one swat on the butt, and that would be the end of it?

15 RL: Yes.

16 DD: Okay. And, you're sure?

17 RL: Yes.

18 DD: Okay. And, and you saw these yourself?

19 RL: Yes.

20 DD: Okay. And what about Johnny, would she ever swat Johnny on the butt, or hit
21 Johnny?

22 RL: No, she just yelled and send him to his room.

23 DD: Okay. And Johnny is a, a big boy, right?

02778

1 RL: Yeah.

2 DD: Okay, in fact he's probably as tall as your mom, right?

3 RL: Yes.

4 DD: All right. Because he was taller than Barry, right?

5 RL: Yes.

6 DD: Okay. What about Johnny -- did Johnny ever hit Rachel?

7 RL: No.

8 DD: Did you ever see Johnny hit Rachel?

9 RL: No.

10 DD: All right. What about you. Did Johnny ever hit you?

11 RL: No.

12 DD: Did you guys ever get into a brother and sister fight?

13 RL: Yeah.

14 DD: Pushing and shoving sometimes?

15 RL: Yes.

16 DD: Did he ever push you down?

17 RL: We'd play fight.

18 DD: Okay. Did you ever get any bruises, or any cuts from "play fighting," with Johnny?

19 RL: Some bruises.

20 DD: Okay. And would, like push you, push you to the ground....play fighting?

21 RL: Yes.

22 DD: All right. Did you ever push him down?

02779

1 RL: Yeah.

2 DD: Okay. And he would get bruises too?

3 RL: Uh-huh.

4 DD: What about uh, what about Johnny and Rachel, would they ever play fight?

5 RL: Yeah, but we'd, they they, wouldn't push each other down and stuff.

6 DD: Okay. Because Rachel was little, right?

7 RL: (No audible response)

8 DD: And was Johnny careful when he played with Rachel.....

9 RL: Yes.

10 DD:because she was little?

11 RL: Yes.

12 DD: All right. What about you and Rachel? Did you and Rachel ever uh, ever play
13 fight?

14 RL: Yeah.

15 DD: Did uh, you and Rachel ever real fight -- have ever had real fights?

16 RL: No.

17 DD: Have you ever pushed Rachel down?

18 RL: No.

19 DD: Has she ever got hurt?

20 RL: No.

21 DD: All right. What about a swing set. Do you recall of being -- pushing Rachel off a
22 swing set....

23 RL: Um....

02780

1 DD:where she fell down and hurt herself?

2 RL: No.

3 DD: Okay. Do you ever recall Rachel having black eyes, anytime?

4 RL: Yes.

5 DD: Do you know how Rachel got those black eyes?

6 RL: No.

7 DD: All right. Do you know about what point and time it was that Rachel got these black
8 eyes before uh....

9 RL: The second week of April.

10 DD: The second week of April?

11 RL: (No audible response)

12 DD: And how come you're so sure about the time?

13 RL: Because, because I remember, because it was right after her birthday.

14 DD: Okay. And do you know how she got the black eyes?

15 RL: She said that a girl had swung -- right here with the uh, with a broom and fractured
16 it, so -- she had black eyes.

17 DD: That's what Rachel said?

18 RL: Yeah. Yes.

19 DD: She described -- did she described another little girl swinging a broom handle and
20 hitting her between the eyes?

21 RL: Yeah, and because she accidentally -- a dog at her-- at Barry's brother accidentally
22 tripped her.

23 DD: Okay. You say, this little girl -- do you know who this, do you know who this little
24 girl is?

25 RL: No.

02781

1 DD: Okay. This little girl hit Rachel between the eyes with a broom, because a dog got
2 out at Barry's brother house?

3 RL: Yes.

4 DD: Okay.

5 RL: It tripped her and -- because if it tripped anybody, it'd get in trouble.

6 DD: The dog would?

7 RL: Yes.

8 DD: Okay. So the, who did the dog trip, do you know?

9 RL: Rachel.

10 DD: Okay. And, and Rachel fell down?

11 RL: Yes.

12 DD: All right. And how was that, then Rachel got hit between the eyes with the uh....

13 RL: I guess the girl must have swung the broom, and it hit her right here -- in the middle
14 of the eyes.

15 DD: So the dog, so the dog tripped Rachel and Rachel fell down, and then the girl picked
16 up a, a broom handle and hit Rachel between the eyes with it?

17 RL: Yes.

18 DD: Okay. Then, you don't know who the girl is?

19 RL: No.

20 DD: Is it one of Barry's brothers daughters, maybe?

21 RL: No. They're all older.

22 DD: They're all older. Was it, was it a little girl?

23 RL: Yeah.

24 DD: And, okay. And, and how do you know it would be a little girl?

02782

1 RL: Because she described her as one of her friends, and she only has little friends.
2 DD: A little friend, okay. And when did, when did you hear this explanation from
3 Rachel?
4 RL: I was with my mom when she said it.
5 DD: Okay. And, and did you're mom ask Rachel what had happened?
6 RL: Yeah.
7 DD: Okay. And did she come home with the black eyes?
8 RL: Yes.
9 DD: Okay. And did she have any other kind of scrapes, or anything like that on her?
10 RL: No.
11 DD: All right. And that was the only time you saw Rachel with black eyes?
12 RL: Yes.
13 DD: All right. Was Rachel sort of a clumsy kid? Did she fall down a lot, or....
14 RL: Yes.
15 DD: Did she?
16 RL: Yes.
17 DD: Okay. Uh, did you ever see any kind of bruises on Rachel -- on her legs, or on her
18 arms?
19 RL: Yeah, when she fell down.
20 DD: And you would see, you would see bruises on her legs?
21 RL: Yes.
22 DD: Okay. Did you ever see any bruises on her face?
23 RL: No.

02783

1 DD: All right, other than the black eyes that one time?

2 RL: Yes.

3 DD: All right. Uhm, now, you indicated when you were talking with Miss Bowman that
4 whenever Rachel would get hurt, or fall down, you're mother would always be very
5 quick to check her out, to see if she was okay?

6 RL: Yes.

7 DD: Do you recall that happening every time that you were aware that Rachel had gotten
8 hurt?

9 RL: Yes.

10 DD: Okay. What about you, when you would fall and get hurt. Would she check you
11 out?

12 RL: Sometimes.

13 DD: She'd come and look and you and see if you were alright?

14 RL: Sometimes.

15 DD: Okay. Are you a pretty strong kid?

16 RL: Yes.

17 DD: Pretty tough kid?

18 RL: Yes.

19 DD: Okay. And what about Johnny, is he a pretty strong, tough kid too?

20 RL: Yes.

21 DD: Other than -- uh, we understand that he's deaf...

22 RL: Yes.

23 DD: Okay? Is he uh, is, is he pretty okay though, during the day -- I mean, is he just like
24 a pretty normal kid?

25 RL: Yes.

02784

1 DD: Okay. Have you ever known him to get aggressive, or get mean, or have tantrums
2 and pick fights with people?

3 RL: No.

4 DD: You think he's pretty mellow?

5 RL: Yes.

6 DD: Okay. All right. Let's talk a little bit about Saturday. You said that on saturday,
7 you're mom was sick? I'm...

8 RL: It was Sunday.

9 DD:okay, well, let's talk about -- just so we know -- this is before they took Rachel to
10 the hospital, okay?

11 RL: (No audible response)

12 DD: All right. Do you remember seeing your mom on the saturday, before Rachel was
13 taken to the hospital?

14 RL: Yes.

15 DD: How was, how was your mom on that saturday?

16 RL: Okay.

17 DD: She was okay? She wasn't sick?

18 RL: Yeah, she went, she went to a birthday party....with Brandy, so she must have ate to
19 much chocolate.

20 DD: And when your mother eats to much chocolate, do you know what happens?

21 RL: She get's sick.

22 DD: All right. And it was Brandy's birthday party?

23 RL: No, her cousins.

24 DD: Brandy's cousin?

25 RL: Yes.

02785

1 DD: All right. Do you know Brandy's cousin name?
2 RL: Alicia.
3 DD: Alicia? Okay. And where was the birthday party?
4 RL: At Apache tears.
5 DD: At uh, Apache tears?
6 RL: Yes.
7 DD: And what is that?
8 RL: It's a trailer park.
9 DD: Is it nearby?
10 RL: Yeah.
11 DD: Okay. And did you go to the birthday party?
12 RL: No.
13 DD: Okay. Where did, where were you? Where did you go?
14 RL: At the house.
15 DD: You stayed there by yourself?
16 RL: Yes.....no, with Barry and Rachel.
17 DD: Barry, and you and Rachel, were there?
18 RL: And Johnny.
19 DD: And Johnny on that saturday? Your mom went with Alicia to.....
20 RL: The birthday party.
21 DD:to the birthday party. Do you know about what time during the day your mom
22 left?
23 RL: One o'clock.

02786

1 DD: In the afternoon?

2 RL: Yes.

3 DD: All right. Do you recall, do you recall that Saturday morning?

4 RL: No.

5 DD: Okay. I mean, getting up, watching cartoons, or doing whatever you guys do....

6 RL: Watching cartoons.

7 DD:whatever you guys on that saturday.

8 RL: We watch cartoons on saturday.

9 DD: Okay. Do you recall doing that on that saturday?

10 RL: Yes.

11 DD: Okay. Uhm, did you watch cartoons with Rachel?

12 RL: Yes.

13 DD: All right. I'm going to turn this tape over. Okay now, this is side two of the uh,
14 Rebecca Lux interview. Uh, do you recall uhm, you say you recall watching cartoons
15 on that day, did Johnny watch cartoons with you too?

16 RL: He was watching them in his room.

17 DD: He was watching them in his room?

18 RL: Yes.

19 DD: He had a T.V. in his room?

20 RL: Yes.

21 DD: Where did you and Rachel watch cartoons?

22 RL: In the living room.

23 DD: In the living room. Is the T.V. in there?

02787

1 RL: Yes.

2 DD: All right. And uh, do you recall getting up on that Saturday morning?

3 RL: I woke up about 12:00 o'clock.

4 DD: At noon?

5 RL: Yeah.

6 DD: Okay. What time did you go to bed on Friday night, do you recall?

7 RL: About around, 10 or 11.

8 DD: Okay, so you slept -- you slept a long time then, huh?

9 RL: Yes.

10 DD: Okay. Uhm, when you got up that Saturday morning, was Rachel awake already?

11 RL: Yes.

12 DD: Okay. And do recall what Rachel was doing?

13 RL: Watching cartoons.

14 DD: Okay. And uh, how was Rachel that Saturday morning?

15 RL: Normal.

16 DD: Did she appear to be okay?

17 RL: Yes.

18 DD: Did she talk to you?

19 RL: Yes.

20 DD: And, and, you guys would intergate, interact in a conversation?

21 RL: Yes.

22 DD: Okay. She would talk to you?

02788

1 RL: Yes.

2 DD: Okay. And you would talk to her?

3 RL: Yes.

4 DD: All right. And uh, uh, did you notice any bruises on her?

5 RL: No.

6 DD: Did she look like she was sick?

7 RL: No.

8 DD: Okay. And, and how long did you guys watch cartoons that day?

9 RL: Until the cartoon get off.

10 DD: All right. So you got up at 12:00, about how long do you recall watching cartoons?
11 Okay, that Saturday, you say, your mother left, was Alicia -- did Alicia come and get
12 her, or did she go and pick up Alicia?

13 RL: Alicia came and got her.

14 DD: Okay, and how old is Alicia?

15 RL: I think she turned 14.

16 DD: Okay. And how was it that Alicia came and got your mother, do you know?

17 RL: By her mother.

18 DD: By Alicia's mother?

19 RL: Yes.

20 DD: Okay. And they drove off in the car?

21 RL: Yes.

22 DD: Okay. And what time was that?

23 RL: About 1:00 o'clock.

02789

1 DD: All right. And when was the next time that you saw your mother after she left to go
2 to Alicia's birthday party?

3 RL: Around, 4:00 o'clock that day.

4 DD: She came home?

5 RL: Yes.

6 DD: All right. Now, from that time when you got up and watched cartoons with Rachel
7 until 4:00 o'clock, uhm, do you have any idea what Rachel was doing in that period
8 of time?

9 RL: Watching T.V.

10 DD: Pretty much all day?

11 RL: Yes.

12 DD: Okay. Was Barry around?

13 RL: Uh.....no. He needed to go to jobs, or like go to his friends house, and stuff.

14 DD: Okay. And he would leave you and Rachel there -- you and Rachel, and Johnny by
15 yourself?

16 RL: Yes.

17 DD: All right. Is that something that happened a lot, that you guys would be left on your
18 own?

19 RL: Sometimes.

20 DD: Well, how often would it be that you would be left -- you, you and Johnny, and
21 Rachel would be left by yourselves?

22 RL: If was if my mom wasn't there, if my mom went with Barry to do, to do something,
23 I don't know -- probably a couple of days a week.

24 DD: Okay. And were you guys pretty -- did you guys do okay by yourselves?

25 RL: Yes.

26 DD: Okay. You didn't get into trouble, or.....

02790

1 RL: No.

2 DD:get into any fights, or anything like that?

3 RL: No.

4 DD: Everybody behaved themselves when, when Barry and your mom weren't there?

5 RL: Yes.

6 DD: Okay. Uh, who would be in charge.....in case something would have happened?

7 RL: If Brandy wasn't there, I'd be in charge, because I had more..... talents, than them.

8 DD: You had more what?

9 RL: Talents.

10 DD: More talents? Okay. Did you have instructions for things that you were suppose to
11 do if something were to happen?

12 RL: Yes, there was something like -- or something, I had to go to next door and call 911.

13 DD: Okay. So you had instructions that if something were to happen, you were to go to
14 the phone and call 911?

15 RL: Yes.

16 DD: All right. Did you ever have to do that? Every have to go to the phone and call 911
17 for anything....ever?

18 RL: No.

19 DD: Okay. Would uh, would uh, would you all -- when Barry and uh, and your mom
20 weren't there, would you and Johnny, or, you and Rachel, or, Rachel and Johnny,
21 would you guys uh, you know, play fight during those periods of time?

22 RL: No.

23 DD: You wouldn't?

24 RL: (No audible response)

02791

1 DD: Okay. Uhm, what, what would you guys do when your mom and Barry weren't
2 there?

3 RL: We'd watch T.V.

4 DD: Okay. Because you knew you guys probably needed to like be good, and not get in
5 trouble?

6 RL: Or go into our rooms and play.

7 DD: Okay, all right. Now, when your mom came home on Saturday, you say she came
8 home about 4:00 o'clock?

9 RL: Yes.

10 DD: Okay. And was Rachel okay at 4:00 o'clock.....

11 RL: Yes!

12 DD:on Saturday? She was.....

13 RL: She was okay the whole day.

14 DD: She stayed there and she was fine?

15 RL: The whole day.

16 DD: Okay. And when your mom came home at 4:00 o'clock, do you remember what she
17 did?

18 RL: She went to her room, she said she was going to lay down, and first she asked me
19 where Barry was -- and I said, "I don't know," then she said, "then I'm going to lay
20 down." So....

21 DD: Okay. And did she go and lay down?

22 RL: Yes.

23 DD: All right. When was the next time you saw your mother?

24 RL: Six o'clock that day.

25 DD: Okay, so she went and layed down for a couple of hours?

02792

1 RL: Yes.

2 DD: All right. And uh, during that two hour period, where was Rachel?

3 RL: With me.

4 DD: Okay. And so, when you saw your mom at six o'clock, Rachel was still with you?

5 RL: Yes.

6 DD: You guys were still watching T.V?

7 RL: Yes.

8 DD: Do you know where Barry was?

9 RL: No.

10 DD: All right. And uh, at six o'clock that Saturday, what happened?

11 RL: Barry came home.

12 DD: All right. Did Barry come home by himself?

13 RL: Yeah, no, with Brandy.

14 DD: He came home with Brandy? All right, and what happened when Barry came home?

15 RL: Nothing.

16 DD: All right. What did, what did Barry do when he came home?

17 RL: I guess he had been running around Tucson looking for a job, and he was tired --
18 so he layed down.

19 DD: All right. And uh, you say your mom was up at six o'clock?

20 RL: Yes.

21 DD: What was she doing?

22 RL: Watching T.V. with us.

23 DD: Okay. And how long did she watch T.V. with you?

02793

1 RL: The whole day.

2 DD: Well, it was six o'clock, so how.....

3 RL: Until about 9:00 o'clock.

4 DD: Until about 9:00 o'clock? Now, are you sure about the times, or you're just guessing?

5 RL: Around 9:00 o'clock.

6 DD: Okay. Was it dark out?

7 RL: Yes.

8 DD: All right. And so, Rachel -- so you and Rachel, and your mother watched T.V. until
9 about 9:00 o'clock on Saturday night?

10 RL: Yes.

11 DD: All right. And uh, did you guys eat dinner?

12 RL: Yes.

13 DD: What did you guys eat? Do you recall?

14 RL: No.

15 DD: Okay. Who fixed dinner? Do you recall?

16 RL: No.

17 DD: All right. You just know that you had food, right?

18 RL: Yes.

19 DD: All right. Did you, did, was it -- did you guys go and sit at the dinning room table
20 and eat dinner, or, did you dinner in front of the T.V.?

21 RL: I think we ate dinner on the dinning room table.

22 DD: Okay. Did uh, did uh, did your mother usually cook dinner?

23 RL: Yes.

02794

1 DD: All right. She would go in the kitchen and get the pots and pans out, and, and cook
2 a meal?

3 RL: Yes.

4 DD: All right. Did uh, did she do this on a regular bases, every day?

5 RL: No.

6 DD: No? How often would she cook dinner?

7 RL: She usually made homemade spaghetti every time she had enough money.

8 DD: Okay. Did you guys, did you guys eat on a regular bases though -- every day you
9 guys had breakfast and lunch.....

10 RL: Mostly every day.

11 DD:and dinner?

12 RL: Yes.

13 DD: Okay, so, you don't -- you guys didn't really have to go hungry, without food?

14 RL: No.

15 DD: Okay. All right. So she cooked dinner, and uh, you repeat, you don't recall what it
16 was on Saturday?

17 RL: (No audible response)

18 DD: Okay. But you do recall eating?

19 RL: Yes.

20 DD: Okay. And Rachel ate on Saturday night too?

21 RL: Yes.

22 DD: All right. Uh, do you know what kind of a eater Rachel was?.....Was she a finicky
23 kind of an eater, or would she sit down and, and eat all her food, or eat half of it,
24 or....

25 RL: She'd eat half of it.

02795

1 DD: Okay, did she uh, uh, did she ever whine or complain about not liking the food, or
2 did she just only eat -- she'd eat half and then stop because maybe that's all she
3 wanted, and she was full?

4 RL: She'd eat half of it and stop.

5 DD: Okay. All right. Do you ever, do you ever recall Rachel ever being a, a whiny kind
6 of a child -- that she would whine or cry, or whimper, or....

7 RL: No.

8 DD:anything like that? She wasn't a whiny kid that you know of?

9 RL: Sometimes.

10 DD: Sometimes? All right. But other, other than that, she was a pretty normal kid?

11 RL: Yeah.

12 DD: Was she a quite, was she a quite child?

13 RL: Yes.

14 DD: Okay. She would never like run to the house hollering and yelling, and acting out....

15 RL: Sometimes.

16 DD:or anything like that? Sometimes? All right. All right. Now, did you guys, do
17 you recall what time you went to bed on that Saturday night?

18 RL: Ten o'clock.

19 DD: About 10:00, did you watch T.V. all the way until ten?

20 RL: Yes.

21 DD: All right. And, did you go to bed, or did, did uh, your mom tell you to go to bed?

22 RL: I went to bed.

23 DD: You got tired and just decided to go to bed?

24 RL: Yeah.

02796

1 DD: All right. Had Rachel gone to bed yet, or do you know?
2 RL: Yeah, she went to bed late.....9:30.
3 DD: Okay. And did she go to bed by herself, or did, did your mother put her to bed?
4 RL: She went to bed by herself.
5 DD: Okay. Was that pretty normal for you guys -- that you guys just kind of get tired and
6 go to bed?
7 RL: Yes.
8 DD: All right.
9 RL: On week-ends, but on Sunday, we have to go to bed by nine.
10 DD: Because of school?
11 RL: Yeah.
12 DD: Okay. Now, when Rachel went to bed at 9:30, did she seem to be okay?
13 RL: Yes.
14 DD: All right. She just got up and walked -- she just put herself to bed?
15 RL: Yes.
16 DD: All right. Now, when you woke up on Sunday, who, who was awake when you got
17 up on Sunday morning?
18 RL: Barry, my mom -- my mom was sleeping, Barry was sleeping....Rachel.....
19 DD: Okay, so, so the kids got up?
20 RL: Yeah.
21 DD: And what did you guys, and what did you do?
22 RL: We just watched T.V.
23 DD: Watched cartoons again?

02797

1 RL: Yes.

2 DD: All right. What about breakfast, did you eat breakfast that Sunday morning?

3 RL: No, because we didn't know if there was anything there.

4 DD: You didn't know? Did, did you go and look to see if anything was there?

5 RL: There was no cereal, so we decided to wait for lunch, we were going to have a
6 burrito.

7 DD: Okay. And uh, what time did Barry get up?

8 RL: 2:33.

9 DD: 2:33?

10 RL: Yes.

11 DD: On Sunday afternoon?

12 RL: Yes.

13 DD: Okay. And how come you're so sure about the time?

14 RL: Because I checked.

15 DD: When he got up, you went and looked at the clock?

16 RL: Yes.

17 DD: All right. And, was it a clock that was there in the house?

18 RL: Yes.

19 DD: Where was the clock?

20 RL: Uh, on his desk.

21 DD: On his desk?

22 RL: Yes.

02798

1 DD: Okay. And uh, if you, if you know, why was it that you went and looked at the clock
2 when Barry got up?

3 RL: Because I was going to see if it was lunch time yet.

4 DD: Okay, and you kind of went by -- out, what time it was during the day?

5 RL: Yes.

6 DD: Okay, was your stomach growling?

7 RL: Yes.

8 DD: You were hungry, huh?

9 RL: (No audible response)

10 DD: Okay, and uh, Rachel and Johnny were there that -- with, with you, right?

11 RL: Yes.

12 DD: Okay. Now, what time did your mom get up....do you know?

13 RL: No.

14 DD: Okay. Did you ever see your mom get up on that Sunday?

15 RL: Let's see, I seen her up when I got back from my friends house.

16 DD: Okay. About what time was that?

17 RL: 6:30.

18 DD: Okay, and, and how come you're sure about the time being 6:30?

19 RL: Because it was night time and it was 7:00 when I got home.

20 DD: Okay, so you remember looking at the clock?

21 RL: Yes.

22 DD: And which clock was that?

23 RL: The one on Barry's desk.

1 DD: The same one there?

2 RL: It's the only digital clock they have.

3 DD: Okay. Was that a -- what kind of clock was that?

4 RL: A digital.

5 DD: A digital clock. Was it electric?

6 RL: Yes.

7 DD: Okay. So you saw your mom at 6:30 when you came home, and was that when she
8 was on the couch with Rachel?

9 RL: Yeah.

10 DD: All right. And uh, when you came in the door -- let me, let me ask you this -- how,
11 was the inside of the trailer at night time -- how, what kind of light was inside the
12 trailer?

13 RL: Uh, the regular light?

14 DD: Yeah, did it appear like dark in there a lot though, at night time?

15 RL: No.

16 DD: Could you see in there very well?

17 RL: Yes.

18 DD: Okay, good. Uh, so when you came home and, and Rachel was on the couch with
19 your mom, how did Rachel appear to you?

20 RL: Sick.

21 DD: She looked like she was sick?

22 RL: Yeah.

23 DD: Okay. And uh, when you left to go over to your friends house at uh, what time did
24 you go -- I'm sorry, what time did you go over to your friends house that Sunday?

25 RL: 6:00.

02800

1 DD: About 6:00?
2 RL: Yes.
3 DD: You were only there for thirty minutes....
4 RL: Yeah....
5 DD:at your friends house?
6 RL:my mom said I could only stay there for 30 minutes.
7 DD: All right. And when you left the house at 6:00 o'clock, how was Rachel?
8 RL: Okay.
9 DD: She was okay?
10 RL: Yes.
11 DD: All right. She didn't appear like she was sick or hurting, or anything like that?
12 RL: No.
13 DD: And then when you came home 30 minutes later, she looked like -- well, she looked
14 sick?
15 RL: Yes.
16 DD: Okay. And is that how you recall it?
17 RL: Yes.
18 DD: Because I, I, I'm not, want, trying to put words in your mouth, I want you to tell me
19 what you remember.
20 RL: She -- her head was bleeding....
21 DD: Okay.
22 RL:that_____
23 DD: Okay. But her head wasn't bleeding when you left at 6:00 o'clock?

02801

1 RL: No.

2 DD: Okay, and you're sure about the times?

3 RL: Yes.

4 DD: All right. Did you look at the clock when you left to go to Barry -- to go to your
5 friends house?

6 RL: Yes.

7 DD: Okay. Do you make it a habit of looking at your clock on regular bases?

8 RL: Yes.

9 DD: Okay. And why is that?

10 RL: To know what time it is.

11 DD: Okay, because you have certain instructions that you need to be certain places at
12 certain times?

13 RL: Yes.

14 DD: Okay. All right. So when you left the house to go over to your friends, then Rachel
15 was okay.....

16 RL: Yes.

17 DD:as far as you knew?

18 RL: Yes.

19 DD: Okay. And had Rachel been anywhere previous to uh -- had Rachel gone anywhere
20 with anybody prior to the time that you left to go over to your friends house?

21 RL: No.

22 DD: She was there with you all afternoon on Sunday?

23 RL: No, she was with -- she was with Barry when he went to his friends, his brothers, and
24 the store.

25 DD: Okay. What time did Barry leave on Sunday afternoon?

02802

1 RL: Four, and then came back.....
2 DD: And he took Rachel....
3 RL: at 4:30.
4 DD:and he took Rachel with him?
5 RL: Yes.
6 DD: All right. And when Rachel left to go with Barry, did Rachel seem to be okay to
7 you?
8 RL: Yes.
9 DD: All right. She was as normal as you've ever seen her?
10 RL: Yes.
11 DD: All right. And then when Rachel came back with Barry, was she okay?
12 RL: Yes.
13 DD: She wasn't crying?
14 RL: No.
15 DD: Was, was her head bleeding?
16 RL: No.
17 DD: Okay. Uh, did she appear to be sick, or anything like that?
18 RL: No.
19 DD: All right. And then uh, a little while later that's when you went over to your friends
20 house?
21 RL: Yes.
22 DD: And Rachel was still there in the house?
23 RL: Yes.

02803

1 DD: Okay. And uh, and then you came back 30 minutes later, and that's when you saw
2 Rachel and she looked like she was sick -- and her head was bleeding?

3 RL: Yes.

4 DD: And she was with your mother on the couch?

5 RL: Yes.

6 DD: All right. And uh, what was going -- was, was, uh, uh -- (I can't remember his name)
7 somebody, bear...

8 LB: Kenny.

9 DD: Was Kenny Bear there?

10 RL: No.....Yes!

11 DD: Okay, do you know who Kenny Bear is?

12 RL: Yes.

13 DD: All right. Who is Kenny Bear?

14 RL: One of Barry's friend's.

15 DD: All right. And, and when you came -- what time was it -- when did you first see
16 Kenny Bear at the trailer?

17 RL: When I came back.

18 DD: From your friends house?

19 RL: Yes.

20 DD: At about 6:30?

21 RL: Yes.

22 DD: All right. So Kenny Bear was there, and you were there, your mom was there,
23 Rachel was there, was Barry there?

24 RL: Yes.

02804

1 DD: And Johnny was there?
2 RL: (No audible response)
3 DD: Okay. Where was Johnny?
4 RL: In his room.
5 DD: Okay. And where was uh, Kenny Bear?
6 RL: Living room.
7 DD: All right. And where was Barry?
8 RL: Living room.
9 DD: Okay. And when you came in, what was going on when you came in at 6:30?
10 RL: They were talking.
11 DD: Who was talking?
12 RL: Barry, my mom, and Kenny Bear.
13 DD: Okay. And do you know what they were talking about?
14 RL: No.
15 DD: All right. And uh, Rachel was laying on the couch?
16 RL: Yes.
17 DD: And, and your mom was there with Rachel?
18 RL: Yes.
19 DD: Okay. And you noticed that Rachel's head was bleeding?
20 RL: Yes.
21 DD: All right, and how did you notice that?
22 RL: Because there was blood coming from her head.

02805

1 DD: Okay. Did you get up close and look at it.....look at her head?

2 RL: No.

3 DD: Okay. How far -- how close did you get to Rachel?

4 RL: To -- enough to hold her hand.

5 DD: So you, you got up, well, almost as close as we are here, right?

6 RL: Yes.

7 DD: And you held her hand?

8 RL: (No audible response)

9 DD: How did her hand feel?

10 RL: Warm.

11 DD: Okay. And when you held her hand, did she know that it was you that was holding
12 her hand?

13 RL: Yes.

14 DD: Did she talk to you, or say anything to you?

15 RL: No.

16 DD: Did you say anything to her?

17 RL: Yeah.

18 DD: What did you say to her?

19 RL: "I love you."

20 DD: Okay. And, was she just kind of laying on the couch?

21 RL: Yes.

22 DD: All right. And after you did that, what did you do?

23 RL: I just kept holding her hand.

02806

1 DD: How long did you hold her hand?

2 RL: I don't know.

3 DD: Okay, uh, what was the next thing that you remember happening with Rachel?

4 RL: That Brandy came in, and then we had to go to bed.

5 DD: All right. When Brandy came in, did Brandy say anything to Rachel?

6 RL: No.

7 DD: Did Brandy say anything to anybody?

8 RL: No.

9 DD: All right. Where did Brandy go when she came in?

10 RL: The room.

11 DD: Okay. About what time was it that Brandy come home?

12 RL: 7:00 o'clock.

13 DD: Okay. And, are you, are you guessing at that time, or are you reasonably certain
14 about that?

15 RL: Because it was half an hour after I came home.

16 DD: Okay. And were you still there holding Rachel's hand?

17 RL: Yes.

18 DD: Okay. So you hold, you held Rachel's hand from the time that you got home, until
19 the time that uh, uh, until the time that Brandy came home?

20 RL: Yes.

21 DD: All right. And then, what did you do?

22 RL: I went to the room, so....

23 DD: So you went to your room about 7:00 o'clock?

02807

02808

- 1 RL: Yes.
- 2 DD: All right. And you say that you heard a conversation between your -- between
3 Rachel and your mother, and you heard something about uh, Barry had hit uh,
4 Rachel with some kind of a.....
- 5 RL: Shoe-bar.
- 6 DD: A shoe-bar?
- 7 RL: "A metal shoe bar," she said.
- 8 DD: And is that what Rachel said, "metal shoe-bar?"
- 9 RL: Yes.
- 10 DD: Okay, those were her exact words?
- 11 RL: Yes.
- 12 DD: All right. Do you recall how many times she said that?
- 13 RL: Two.
- 14 DD: All right.
- 15 RL: I'd say three, two to my mother, and one to Barry.
- 16 DD: Okay. And you have no idea what a metal shoe-bar is?
- 17 RL: No.
- 18 DD: Okay. You wouldn't know one if you -- if I were to show you one and say, "this is
19 a metal shoe-bar," you wouldn't.....
- 20 RL: I know shoe-bars they use on your feet, because they need to know what size shoe
21 it is.
- 22 DD: Okay. But you didn't have any idea what Rachel was talking about when she said
23 that?
- 24 RL: No.

1 DD: Okay. Now, when she said that, what did you think, when she said, "that Barry had
2 hit me with a, with a shoe bar?"

3 RL: At first I said, "I didn't think it could be true."

4 DD: Okay. Why is that?

5 RL: Because Barry, Barry was to nice.

6 DD: Okay. And then uh, what was it, was it something that let you to believe -- well, was
7 it something that made you change your mind, that maybe that it was true?

8 RL: Well, when you see it on the press to many times.

9 DD: I'm sorry.

10 RL: When you see it in the press to many times.

11 DD: Okay, so you, you -- since this has happened, then you've seen people on T.V. telling
12 what happened?

13 RL: Yes.

14 DD: All right. All right. And is that on, on the T.V. -- did you hear them talking about
15 a metal shoe-bar, on the T.V.?

16 RL: No, they said, "a crowbar."

17 DD: They said a "crowbar" on the T.V., okay.

18 RL: Yes.

19 DD: Was that the first time you'd ever heard "crowbar," was what you heard on the T.V.?

20 RL: No, I've seen movies and stuff.

21 DD: Regarding this case?

22 RL: No.

23 DD: No? Okay. I'm, I'm, what, what I want to know is, where was the first time that you
24 heard that it was a crowbar that Barry had hit Rachel with?

25 RL: On the T.V.

02809

1 DD: It was on the T.V.?

2 RL: (No audible response)

3 DD: All right. Did you ever talk to your aunt Donna about what happened?

4 RL: Yes.

5 DD: All right. Did you, did you tell your aunt Donna what, what you remember
6 happening?

7 RL: Yes.

8 DD: All right. Did uh, your aunt Donna ever tell you what she thought might have
9 happened?

10 RL: She wasn't there.

11 DD: Okay, I understand that, but.....

12 RL: Yeah, she never knew -- had been in Barry's house.

13 DD: Okay. Did, did, when you talked to her after Rachel had been taken to the hospital,
14 did, did your aunt Donna ever tell you what she thought had happened between
15 Rachel and, and your mom, or Rachel and Barry?

16 RL: No.

17 DD: No? She never even talked to you about it?

18 RL: No.

19 DD: Did your aunt Donna ever ask you to tell her what happened?

20 RL: Um, yes.

21 DD: How many times have you told your aunt Donna what, what happened that night?

22 RL: Once.

23 DD: Just the one time?

24 RL: Yes.

02810

1 DD: And when was that, Rebecca?

2 RL: I have no idea.

3 DD: Was, was it close to the time when you moved in with her, or, was it.....

4 RL: Close to the time when I moved in with her.

5 DD: Okay. All right. And that was the only time that you talked to her about it?

6 RL: I talked to her right away, like right after I moved in with her.

7 DD: Okay. And was that the first or the second time that you talked to her?

8 RL: The second.

9 DD: The second? All right.

10 RL: And then at the funeral..

11 DD: And then at the funeral you talked to her about it again?

12 RL: (No audible response)

13 DD: Did your, did uh, uh, did your aunt Donna ever tell you what she thought happened?

14 RL: No.

15 DD: Okay. Now, when Rachel was laying on the couch, you indicated that she had -- was

16 trying to drink some water, or had raised up to try to get some water?

17 RL: Yes.

18 DD: All right. Did you see her move herself?

19 RL: No, my mom, she would usually pick her up and then give her the water -- and then

20 she would always throw up every five minutes.

21 DD: Okay, so your mom would like raise her up and try to give her some water?

22 RL: Yes.

23 DD: Okay. And how was your mom acting?

02811

1 RL: Normal.

2 DD: She was acting normal?

3 RL: Yes.

4 DD: Was she acting like she was concerned for Rachel, and that Rachel was sick?

5 RL: Yes.

6 DD: All right.

7 RL: But.....

8 DD: But what?

9 RL:not much.

10 DD: Not that much?

11 RL: Because she used to be a Registered nurse.

12 DD: Okay. So you're mother -- how do you know your mother used to be a Registered
13 nurse?

14 RL: Because I went to her, where she worked....

15 DD: Okay.

16 RL:before.

17 DD: All right. And she used to work in.....where, where?

18 RL: Santa Rosa.

19 DD: And what, what is Santa Rosa?

20 RL: A nursing home.

21 DD: Okay. So she worked there?

22 RL: Yes.

23 DD: And so she, as far as you knew, she knew about taking care of people?

02812

1 RL: Yes.

2 DD: All right. And so, the way Rachel was -- well, the way your mother was treating
3 Rachel, then seemed pretty normal to you?

4 RL: Yes.

5 DD: Okay. Was that how your mother treated Rachel whenever Rachel appeared to be
6 hurt, or a appeared to be sick?

7 RL: Yes.

8 DD: Okay. Did it appear to you that your mother was trying to take care of Rachel, and
9 trying to help her at that time?

10 RL: Yes.

11 DD: All right. Was your mother saying anything to Rachel?

12 RL: No.

13 DD: All right. Was she saying anything to Barry?

14 RL: She was telling Rachel , she was saying, "Rachel, I love you."

15 DD: Okay, did Rachel, did you ever hear Rachel say anything that night, after you got
16 back from uh, your friends's house?

17 RL: No.

18 DD: Okay. Did you ever hear Rachel -- was Rachel crying that, that night?

19 RL: Yes.

20 DD: Okay. Was she crying -- sobbing, bawling, or was she just kind of whimpering?

21 RL: Bawling.

22 DD: Okay. Was it loud?

23 RL: Yes.

24 DD: Okay. Uh, was it uh, the normal way that you would hear Rachel cry, or was it
25 something, maybe that you had never heard before?

02813

1 RL: I never heard it before.

2 DD: Okay. And uh, what did it sound like?

3 RL: I don't know.

4 DD: All right. But you knew that it was crying?

5 RL: Yes.

6 DD: All right. Did she cry like that while you were holding her hand?

7 RL: Yes.

8 DD: All right. Did Rachel's crying appear to be like it was -- like screams, or, or what?

9 RL: I don't know.

10 DD: You don't recall, you don't recall, or you just don't know.....or, you can't describe it?

11 RL: I can't describe it.

12 DD: All right. Did this uh, did this, did this crying uh, go on until the time that you went
13 to bed?

14 RL: No.

15 DD: All right. How long did Rachel cry?

16 RL: For 30 minutes.

17 DD: All right. Was this the 30 minutes while you were holding her hand, or was this after
18 you had stopped holding her hand at 7:00?

19 RL: It was sometime I stopped holding her hand.

20 DD: And then after you stopped holding her hand, that's when she stopped crying?

21 RL: No, like a couple of minutes after I left.

22 DD: Okay. All right. Did you ever see Rachel get up off the couch that night?

23 RL: No.

02814

- 1 DD: Okay. Did uh, was she still on the couch when you went uh, to bed?
- 2 RL: Yes.
- 3 DD: All right. Do you recall whether or not, your mother ever tried to feed Rachel any
4 dinner?
- 5 RL: Yes.
- 6 DD: Okay. What happened when she tried to do that?
- 7 RL: She keep vomiting.
- 8 DD: Okay. And what was Barry doing while all this was going on.....do you know?
- 9 RL: He was out trying to find a job.
- 10 DD: So he left while Rachel was on the couch, sick, and your mother was taking care of
11 her -- to go out and try to find a job?
- 12 RL: Yes.
- 13 DD: How do you know that that's what he was doing?
- 14 RL: Because that's what he told us.
- 15 DD: And he left?
- 16 RL: (No audible response)
- 17 DD: Okay. He said, you recall him saying anything when he left the house?
- 18 RL: He said he had to go to work.
- 19 DD: Okay. All right. And did he say anything to Rachel when he left?
- 20 RL: No.
- 21 DD: Okay. Did he say anything to you when he left?
- 22 RL: No.
- 23 DD: Did he say anything to your mother when he left?

02815

1 RL: I don't know.

2 DD: Okay. But you told me that he said, "I'm, goodbye, I gott'a go to work?"

3 RL: Yes.

4 DD: Do you recall about what time that was?

5 RL: Eight o'clock? No, 6:35.

6 DD: Okay. So Barry wasn't there for very long then when you got home from your friends
7 house?

8 RL: No.

9 DD: Okay. Uh, did Kenny Bear leave with him?

10 RL: Uh-huh.

11 DD: All right. And that was about 6:35?

12 RL: Yes.

13 DD: All right. So the only people that were left in the house, was you, and uh, your
14 mother, and Rachel and Johnny?

15 RL: (No audible response)

16 DD: Okay. Do you recall that night anybody else coming over?

17 RL: Brandy.

18 DD: Who else?

19 RL: Coming back from Alicia's birthday party.

20 DD: Okay. Uh, and uh, Brandy came home, what about -- anybody else come?

21 RL: Alicia did.

22 DD: Okay, and who, who came with Alicia, anybody?

23 RL: Nobody.

02816

1 DD: Alicia's mother didn't come in the house?
2 RL: No.
3 DD: All right. Does Alicia have a brother?
4 RL: No.
5 DD: All right. But you recall Alicia coming?
6 RL: Yes.
7 DD: Okay. And do you know why she came?
8 RL: To drop Brandy off.
9 DD: To drop Brandy off, and she came in the house?
10 RL: Yeah.
11 DD: Okay, now, Alicia doesn't drive, does she?
12 RL: No.
13 DD: Because she's too young, right?
14 RL: Yes.
15 DD: Okay, so as far as you know, it must have been Alicia's mother driving?
16 RL: Yeah.
17 DD: Okay. All right, now, you also indicated that uh, your mother and -- well, did your
18 mother and Barry ever have a conversation about uh, what Rachel had said that uh,
19 Barry had hit her with a shoe, shoe-bar?
20 RL: They argued a little bit.
21 DD: All right. You've already told us that you came home at, about 6:30, and Barry left
22 about 6:35, okay -- so, did they have that argument in that five minute period of time,
23 or.....?
24 RL: No! After he came home.

02817

1 DD: After he came home, when?
2 RL: It was about 9:00 o'clock.
3 DD: Okay. Now, you were already in bed, or were you still up when Barry came home?
4 RL: I was just about going to bed.
5 DD: Okay. You were getting ready to go to bed?
6 RL: Uh-huh.
7 DD: And that's when you recall Barry coming home?
8 RL: Yes.
9 DD: And that's when uh, your mom and Barry had the conversation about the shoe-bar?
10 RL: Yes.
11 DD: Was it a conversation like we're talking here, or was it uh.....
12 RL: They were yelling at each other.
13 DD: They were yelling at each other?
14 RL: Uh-huh.
15 DD: Was your mother accusing Barry of hitting Rachel with a shoe-bar?
16 RL: Yes.
17 DD: Okay. Do you recall any of the uh, the exact words that either your mom, or Barry
18 was using?
19 RL: No.
20 DD: You just knew that it was yelling?
21 RL: Yes.
22 DD: Okay. And how did you know that they were arguing about the shoe-bar?
23 RL: I could hear them.

02818

1 DD: Did you ever hear the word "shoe-bar" come from your mother?

2 RL: Yes.

3 DD: And how would Barry respond?

4 RL: "I did it!"

5 DD: All right.

6 LB: He would say what?

7 RL: "I did it."

8 LB: He said, "I did it?"

9 RL: "I did not!"

10 LB: "I didn't."

11 DD: Okay. Now, and you had heard -- while you were holding -- earlier, when you were
12 holding Rachel's hand, while she was laying on the couch, is that when she told
13 you.....

14 RL: No.

15 DD:is that when she said about the shoe-bar?

16 RL: No.

17 DD: When did she say about the shoe-bar?

18 RL: Later, when Barry left.

19 DD: Okay, and that, while Barry was out looking -- going to work?

20 RL: Yes.

21 DD: Okay. And uh, but you weren't holding her hand anymore?

22 RL: No.

23 DD: Okay, but you were still in the living room?

02819

1 RL: Yes.

2 DD: It's a kind of a small trailer, right?

3 RL: Yes.

4 DD: Okay. And uh, while, while your mother was tending to Rachel on the couch, that's
5 when Rachel said that, "Barry hit me with a shoe, shoe-iron....a shoe-bar," I'm sorry!

6 RL: Yes.

7 DD: And she said that a couple of times?

8 RL: Yes.

9 DD: And what, how did your mom react? How did your mom act when, when Rachel
10 said that?

11 RL: I have no idea.

12 DD: Okay. All right. And uh, as soon as Barry got home that night, while you were
13 getting ready to go to bed, is that when the argument started - right away, when
14 Barry came into the house?

15 RL: Yes, well Barry was outside and she went out there and started up a conversation,
16 then....

17 DD: Wait a minute Rebecca, you're kind of going real fast there, and I want to make
18 sure. When, when Barry came home, your mom went outside?

19 RL: Yeah.

20 DD: Okay. And was Rachel still laying on the couch?

21 RL: No, she took her -- my mom took Rachel in her hands _____

22 LB: (Unintelligible)

23 DD: Okay, so your mom went outside with Rachel?

24 RL: Yes.

25 DD: Okay. And are you sure about that?

02820

02821

- 1 RL: Yes.
- 2 DD: Okay. And did the argument start outside?
- 3 RL: Yes.
- 4 DD: All right. Who, if you recall, who, who's voice did you hear first?
- 5 RL: My mom's.
- 6 DD: She started screaming at Barry?
- 7 RL: No.
- 8 DD: Did she start yelling at Barry?
- 9 RL: No.
- 10 DD: She just started talking to Barry?
- 11 RL: Yes.
- 12 DD: When, do you recall what she said?
- 13 RL: No.
- 14 DD: All right. And uh, then, she was outside the door....
- 15 RL: Yes.
- 16 DD:of the trailer, and you were still inside?
- 17 RL: Yes.
- 18 DD: And you were able to hear your mom when she was.....
- 19 RL: A little bit.
- 20 DD: All right. And the argument started out there?
- 21 RL: Yes.
- 22 DD: All right. And, did the argument continue as they came back in the house?

1 RL: They stayed out there arguing.

2 DD: Okay. Did you ever hear -- were they ever in the house while they were arguing?

3 RL: Not that I know of, I fell asleep.

4 DD: Okay. So, did their argument go on for a long time?

5 RL: I have no idea.

6 DD: Okay. Now, when you uh, when you saw Rachel, I mean, you were holding her hand,
7 did uh, did she appear to be wet?

8 RL: No.

9 DD: Her hair wasn't wet?

10 RL: Yeah, her hair was wet.

11 DD: Her hair was wet?

12 RL: Yes.

13 DD: Was that where, the area where the blood was?

14 RL: Yes.

15 DD: Okay. Was her whole head wet, or was it just on the one side of her head?

16 RL: It was all wet.

17 DD: All right. What about, what about her clothes? Did her clothes appear to be wet?

18 RL: No.

19 DD: Okay. Did they appear to be dry?

20 RL: Yes.

21 DD: Okay. And if they would have been wet, you would have noticed, maybe?

22 RL: Yes.

02822

1 DD: All right, so you went to bed and you went to sleep before your mother and Rachel
2 -- uh, before your mother and Rachel, and Barry came in the house?

3 RL: Yes.

4 DD: And how long would you say it took you to fall asleep that night?

5 RL: Uh, two minutes.

6 DD: You fall asleep pretty quick usually?

7 RL: Sometimes.

8 DD: Were you tired.....

9 RL: Yes.

10 DD:that night? Okay, and you weren't concern that uh, your mom and Barry were
11 outside arguing?

12 RL: (No audible response)

13 DD: You weren't scared?

14 RL: No.

15 DD: Okay. Now, the way that they were discussing things about Rachel that night, had
16 you seen then arguing like that before -- in the past?

17 RL: No.

18 DD: Okay. You never had seen -- never seen them argue like that before?

19 RL: No.

20 DD: Okay. Did your mom appear like she was mad?

21 RL: Yes.

22 DD: All right. And how was Barry acting?

23 RL: (No audible response)

02823

1 DD: Okay, you weren't able to hear much of the conversation though, right? Just maybe
2 the noise coming from the front?

3 RL: Yes.

4 DD: Okay, and you knew it was your mom was, was getting after Barry pretty good, right?

5 RL: Yes.

6 DD: Okay, because you probably figured your mom thought that, that he might have hit
7 Rachel with the shoe-bar?

8 RL: Yes.

9 DD: Okay. And then after you fell asleep that night, you don't uh, you recall -- did you
10 wake up at anytime between the time you went to bed, until the time you got up the
11 next morning?

12 RL: No.

13 DD: All right. So you slept straight through the night?

14 RL: Yes.

15 DD: And then you woke up the next morning and uh, you say you saw -- you found
16 Rachel on the floor?

17 RL: Yeah.

18 DD: Now when you woke up, did you get up and, and go around the house at all, or did
19 you see Rachel there on the floor right when you got up?

20 RL: Well, right when I got up, I had to use the bathroom, but Rachel was in the way, so
21 I decided I was going to pick her up and put her back on the bed.

22 DD: And did you do that?

23 RL: Yes.

24 DD: Okay. When you found Rachel, was she laying on her stomach, or was she laying on
25 her back?

26 RL: She was laying on her stomach.

02824

02825

1 DD: Okay.

2 RL: I think, no....her back.

3 DD: All right. Now, she had, all right, let's -- I want you to think about it because it's
4 important on how you found her.

5 RL: On her back.

6 DD: She was lying on her back?

7 RL: Yes.

8 DD: You're sure?

9 RL: Yes.

10 DD: Okay. Did you, did you tell the police this?

11 RL: Uh, C.J.

12 DD: C.J?

13 RL: Yes, this....

14 DD: Okay, when you, okay, when you talked to the police officer, you, you described that
15 you found her?

16 RL: Yes.

17 DD: Okay. Now, she was right there next to her bed?

18 RL: Yes.

19 DD: All right. And, she had a, kind of uh, uh, a little bed, right?

20 RL: Yes.

21 DD: All right. Did it, did it appear to you that she had rolled out of bed, or fallen out of
22 bed?

23 RL: No.

1 DD: Okay, was her head, up towards the end of where her head normally would have
2 been if you would have picked her up and put her into bed?

3 RL: No.

4 DD: No? Was it....

5 RL: In the opposite side.

6 DD: Okay, so....

7 RL: It's like somebody just put her there.

8 DD: Okay. So, her feet were where her head would have normally been if you would
9 have picked her up and put her in the bed?

10 RL: Yes.

11 DD: Okay. Did you notice any -- when you picked her up, did you notice any uh, any
12 blood, or anything like that on her pajamas?

13 RL: Not on the pajamas, but there were little drops of blood on her pillow.

14 DD: On her pillow, in her bed?

15 RL: Uh-huh. So I just thought, "it's probably from last night."

16 DD: Okay. All right. And you put her back to bed and then you went -- you just went
17 back to bed yourself?

18 RL: Yes.

19 DD: Okay. So you woke up before the alarm went off?

20 RL: Yes.

21 DD: All right. Do you know what time it was that you woke up?

22 RL: 6:30.

23 DD: What time do you normally get up on Monday's?

24 RL: Around, 7:00.

02826

02827

1 DD: Okay, so you got up, decided to go to the bathroom -- you saw Rachel, put her back
2 into bed, went to the bathroom, and then you went back to bed just for a few more
3 minutes to sleep?

4 RL: Yes.

5 DD: Ready to get up when the alarm went off, right?

6 RL: Yes.

7 DD: Okay. And what was the next thing you remember....when you woke up?

8 RL: My mom yelling, "Rachel, get up!"

9 DD: Was she yelling at Rachel like, "Rachel, get up, it's time to get up?" Or was she like,
10 with Rachel saying, "Rachel, wake up, wake up, Rachel, wake up?"

11 RL: "Rachel, get up."

12 DD: Like it was time to get up?

13 RL: Yes.

14 DD: Okay. was she, where was she, where was she yelling this from?

15 RL: On the bottom -- bottom of her bed.

16 DD: Okay. Now, was it dark in your bedroom?

17 RL: No.

18 DD: There was light in your bedroom?

19 RL: Yes.

20 DD: The lights were on?

21 RL: Yes.

22 DD: Your mother had turned the lights on when she came in?

23 RL: Yes.

1 DD: All right. And after she said, "Rachel, get up," what was the next thing that you
2 remember?

3 RL: She kept saying, "Rachel, get up," and she never woke up.

4 DD: Okay. Did your, after your mother had said this a couple of times and realized that
5 Rachel wasn't getting up, what was the next thing you remember your mother doing?

6 RL: She called Barry in.

7 DD: How was it that she called Barry?

8 RL: She goes, "Barry, come here."

9 DD: Did she say, "Barry, come here," or did she holler, "Barry, come here!?"

10 RL: She hollered it.

11 DD: Because Barry is in the next room, right?

12 RL: Yes, no, he's in _____

13 DD: And did Barry come in?

14 RL: Yes.

15 DD: All right. And uh, what did uh, what did Barry and your mother do then?

16 RL: They took her to the hospital.

17 DD: Okay. Did your mother say anything to -- was she -- say anything to Rachel when
18 she was holding her like, "Rachel, wake up. Rachel wake up?"

19 RL: Yes.

20 DD: Was that, was she doing that?

21 RL: Yes.

22 DD: I don't want you to say that it was because I'm saying that, I want you to tell me
23 what you remember.

24 RL: First they took her into the bathroom to do CPR, and they couldn't do that, and then
25 they decided that they would take her to the hospital.

02828

1 DD: Okay, now how do you know they took her into the bathroom, and try to do CPR?
2 RL: Because Brandy went with them.
3 DD: All right. And uh, because Brandy with them, how do you know that that's what they
4 were doing in the bathroom?
5 RL: Because Brandy told me.
6 DD: Okay. All right. And then after that, that's when they took Rachel to the hospital?
7 RL: Yes.
8 DD: Okay. Did you -- and you kids stayed there while Barry and your mom took Rachel
9 to the hospital?
10 RL: Yes.
11 DD: All right. Who, who came and got you up?
12 RL: Barry.
13 DD: Barry did?
14 RL: Yes.
15 DD: Where did he take you?
16 RL: He took me and Brandy to his friends house.
17 DD: Ron?
18 RL: Yes.
19 DD: The guy that lives down in the bus -- out in the desert?
20 RL: Yes.
21 DD: All right. And he left you there?
22 RL: (No audible response)
23 DD: What did he tell you about what was going on?

02829

1 RL: He didn't tell us anything.

2 DD: He just said, "I'm taking...." what, did he explain to you why he was taking you out
3 to Ron's?

4 RL: No.

5 DD: All right. And, he just left you there?

6 RL: Yes.

7 DD: Okay, and then.....

8 RL: (Unintelligible)

9 DD: Okay. Did he come back?

10 RL: Yes.

11 DD: And how, how was Barry actingwhen he came back?

12 RL: He was a little bit crying.

13 DD: Okay. Now, when Barry took you to Ron's house, how was he acting?

14 RL: Uh, I don't know.

15 DD: Okay. You weren't paying attention, or you don't recall?

16 RL: No. I wasn't paying attention.

17 DD: Okay. Uh, were you scared for -- were, were you scared at all that morning?

18 RL: Yes.

19 DD: And why, because of -- maybe of what had happened to Rachel?

20 RL: Yes.

21 DD: What did you think had happened to Rachel?

22 RL: At first I though she just fell into unconscious, and they'd bring her back.

23 DD: Okay. And when was it that you had a different idea of what had happened?

02830

1 RL: I never did.

2 DD: Okay. So you didn't know until you heard the bad news?

3 RL: (No audible response)

4 DD: Okay. All right. That's all I've got.

5 LB: I've just have a couple more.

6 DD: Sure.

7 LB: Kind of quick. Uh....Rebecca, did you, uh, did you like your family living with Barry
8 and Brandy?

9 RL: Yes.

10 LB: Okay. You didn't like think, "I wish we weren't here," or, "I wish it was just our
11 family alone?"

12 RL: No.

13 LB: Uh, did you, did you ever uh, tell Rachel to tell your mom anything about Barry?

14 RL: No.

15 LB: Okay, or not to tell her something about Barry?

16 RL: No.

17 LB: Okay. Now, you say that Barry never hit you, did he ever touch you in any other
18 way? Like, did he hug you guys?

19 RL: No.

20 LB: Never touched you at all?

21 RL: No.

22 LB: You know the difference between "bad touches," and "good touches?"

23 RL: Yes.

24 LB: Okay. There was never any touching that you thought was bad?

02831

1 RL: No

2 LB: Or that you thought he shouldn't have done to you?

3 RL: No.

4 LB: That's all I've got.

5 DD: That will conclude the interview with uh, Rebecca Lux.

02832

Exhibit 20

THIS WILL BE A TAPED STATEMENT AS GIVEN TO DET. RANKIN IN REFERENCE TO CASE 940502025 ON FRIDAY, MAY 27, 1994, AND THE TIME NOW IS APPROXIMATELY 1428 HOURS AND I'M, I'M AT, UH, WHAT'S THE ADDRESS HERE AGAIN, LET ME CHECK, AND I'M SPEAKING TO STEPHANIE FLEMING.

LEGEND: Q. DET. RANKIN A. STEPHANIE FLEMING

Q. Mrs. Fleming, uh, first of all, can you tell me your, your full name and date of birth?

A. Stephanie Michelle Fleming, 12/11/70.

Q. 12/11/70? So that makes you what?

A. Well 23.

Q. 23 now, ok. Now, um, you're just staying here temporarily at this place?

A. Actually this is a friend's house.

Q. Ok, alrighty. Now back around May 1st and May 2nd, you were living at, uh, 4105 E. Benson Highway, is that..?

A. 40-, 4501.

Q. 4501, I'm gettin' my numbers mixed up, 4501 E. Benson Highway. Did you have a space number there?

A. Yeah, #33.

Q. Ok, now, um, did you, who did you live there with at the time?

A. Me and my husband and my three children.

Q. Now on Sunday, um, was there anything unusual that happened during that day, could you tell me how pretty much the day started, what you guys were doin' and..?

A. Had planned a birthday party for my husband. And we were sittin', there was a whole bunch of us, about ten of us sittin' around our camper and our trailer that we owned, and we were just sittin' there, drinkin' beer, talkin', havin' a good time, and about 5:00 o'clock, you know it may not have been that late, um, all the kids were outside, they were all playin'..

Q. How did you realize it was around 5:00 o'clock?

A. I, well we were barbecuing and I looked at my watch and I kept sayin', are we gonna barbecue yet, we gonna barbecue yet, and it was about 5:15 the last time I looked at my watch. And we sat there and everybody kept pointing in the camper and I didn't understand what they were doin' and I looked in, then there was a little girl in there, and I didn't recognize who she was.

Q. She was in your camper?

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A. Yes.

Q. So what happens?

A. She was..

Q. Were they saying somethin' when they were pointing, or they're just pointin' in there?

A. They're just pointin' in there, they didn't, you know it's, they were shocked because somebody had walked in there and they didn't know who she was. And then, uh, Julian said you know, isn't that one a Barry's kids, and I happened to realize who it was.

Q. Do you know who, what Julian's last name is?

A. Julian Duran.

Q. Ok, so we got to make sure we know who he is. So Julian says, that's one a Barry's kids?

A. He asked me if, if it was and I said yeah.

Q. Ok.

A. Because I looked over and realized that it was Rachel.

Q. So you knew her as Rachel?

A. Yes I did.

Q. Ok do you know about how old she was?

A. Four.

Q. Ok. How did you know her as Rachel?

A. She, we went over, we used to go over there and, um, she had, they had all the puppies were all around there and Barry would always let her take the bike outside and play and I would go over there and visit Angela and Barry and talk to them, you know every once in awhile, not all the time. And they had asked me to babysit a couple a times, fer their daughter.

Q. Ok.

A. And fer their, I guess it's Angela's son, is he deaf or..?

Q. Now not to get you off the, the track or anything, uh, but when you would babysit, did you notice anything unusual or anything that you know just out of the ordinary?

A. I, I didn't babysit, I didn't end up doing it.

Q. Oh I see.

A. It was, they asked me to do it and every time we'd go over there you know they didn't need a babysitter.

Q. Oh I see.

A. And the Sunday that we saw Rachel, that 3:30 in the

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afternoon we had gone over there because she had asked me the day before if I would babysit Sunday evening, because her and Barry were going out. And I said yes, but let me check with my husband first.

Q. So first of all, your first contact with the Jones and Angela and, uh, is when you go over there at 3:30.

A. That day, yes.

Q. Did you go over by yourself or who'd you go with?

A. I was by myself.

Q. Ok, what did you see when you go there at 3:30?

A. They were, she was sittin' on the couch, Angela was sittin' on the couch and Barry was in the kitchen.

Q. Angela was awake?

A. Angela was wide awake.

Q. Ok and this is at 3:30 on Sunday.

A. This is 3:30 in the afternoon.

Q. Ok.

A. And...

Q. What happens?

A. I asked her if she wanted me to babysit and she says, no, you know, don't worry about it. So I said ok, fine. And I asked about if there was more puppies, their next door neighbor has more puppies.

Q. So you're looking for, for a job, I mean just in case they, you know, they offered, so just in case you could-babysit.

A. Well no, she had asked me and then she said you know they would pay me, it was just somethin' that I, it didn't matter, I mean..

Q. Yeah. They told you at 3:30, Angela's wide awake, is Barry there?

A. Yes, he was.

Q. Um, is Rachel there?

A. Um, yeah, she was outside.

Q. Ok. Did you look at Rachel?

A. I really didn't pay attention. She didn't.. if she had a looked sick at that, that particular time, I pro-, I woulda noticed, ...

Q. So there was nothing...

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A. ...I didn't see nothin' really there..

Q. ...special that called your attention toward her.

A. Not, not at that time, not at 3:30.

Q. Ok.

A. Although I really didn't pay attention either, you know.

Q. What was she doin', do you remember what Rachel was doin'?

A. She was riding her bike.

Q. And what was Barry doing?

A. He was in the kitchen doin' whatever.

Q. And Angela's on the couch.

A. Yes. She was...

Q. And she's...

A. ...on the couch.

Q. ...talkin' to you.

A. Yes. Very coherent. Had told me that they had just woke up and that they didn't need a babysitter and she'd, she was awake, she was wide awake.

Q. Ok.

A. And their, um, the other three kids were outside playin'. My husband, that day, had fixed the boy's bike who is deaf, and I don't remember his name.

Q. Ok.

A. And I asked him, why don't you go ask Barry for a screw, and he kept shakin' his head no and..

Q. Ask Barry for a screwdriver?

A. A screw for his bike...

Q. A screw.

A. ...to fix his bike and he kept shakin' his head no. And I told, that day, you know later on, I told Barry that you know my husband had fixed his son's bike and he says, oh thanks, you know, don't worry about it and he told his, his son, whatever he is, I don't know if he's his son or not, to thank Mike for it.

Q. Mm hm (yes).

A. Make sure he thanked him for it, and he did. But otherwise. And the kids were all playin', every one of them were playing over by our camper.

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- Q. Ok.
- A. They were riding bikes, playing.
- Q. When is the next time that you run into either Rachel, Angela or Barry?
- A. We ran into, well it was about 5:15.
- Q. Or when you see or meet 'em.
- A. What, that day?
- Q. Yeah, Sunday.
- A. About 5:15 and everybody kept sayin' after, Rachel was in the camper, I asked her if she needed anything and she shook her head no. And she, I think she said no, I'm not too sure.
- Q. So are we back to 5:15 in the evening now?
- A. Mm hm (yes).
- Q. And she's inside your, your camper.
- A. She's inside the camper.
- Q. Uh huh (yes).
- A. She didn't, she just walked in the camper.
- Q. Has she done that before, has she been in there before?
- A. She's never been in my camper, she's never been anywhere near my camper. They don't, usually they don't let, especially Rachel because she's so small, they don't let her wander off. But Julian I guess said she was underneath the camper, we had curtains hangin' up, it was a cab-over, she was sitting underneath there because she was cold, 'cause she was wet, like squirt gun fight type wet.
- Q. She was cold?
- A. Yes.
- Q. Who, who said she was cold?
- A. Julian said she was sitting under there 'cause she was cold, I don't know. And then I guess some of the other kids had told him that.
- Q. Did, was she wet?
- A. Yes, she was soaking wet.
- Q. So did it look like a squirt gun fight thing, it looked..
- A. Well yeah it did. It, you know you know like kids playing with water, her hair was soaking wet, plastered to her head wet.

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Q. Did you notice anything else about her head?

A. Nope, she did not have any, when she was in our camper, she didn't have any bumps that I noticed on her head.

Q. What about blood?

A. No blood.

Q. No blood.

A. No blood, and I looked at her head.

Q. Did you look through the hair?

A. Yes, I did. And you know there was nothing there. She, what made me, I don't, she tried to get sick, she was doin' dry heaves.

Q. Dry heaves.

A. And I took her in the bathroom and she didn't, she never threw up, she just constantly dry heaved.

Q. What was her appearance as she's doing this?

A. Sick. You know, help me, I'm sick.

Q. Did she say anything to you?

A. No, I asked her if she was alright after she came out of the bathroom and she said yes. And that's the only thing she said.

Q. Did she sa-, did you ask her what happened or anything?

A. No, I asked her if she was sick and she said no. Or she shook her head no.

Q. What did her face look like?

A. She was a greenish color. She had black, like, uh, bags under her eyes, from lack of sleep type. Um, to me just was real skinny and I, you know it just, I guess it's because he clothes were so wet and I never paid attention to, you know if she had other clothes on, she'd look a lot bigger.

Q. Uh huh (yes).

A. Sunday when, as wet as she was, she looked skinny skinny.

Q. What, um, what was she wearing?

A. She was wearin' a dark blue, I think it was like shorts type thing that, um, yeah I know it was shorts, dark blue, maybe it was black or somethin' like that.

Q. And what type of shirt?

A. She wasn't wearin' a shirt.

Q. She didn't have a shirt on at all?

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A. No. No shirt.

Q. Did you notice any bruises on her, injuries, anything that was, that was clearly that you could see?

A. No.

Q. Scratches?

A. No, no no scratches, no nothin', the only thing what.. her face was a greenish color, her, all her skin was, or you know like a, it wasn't blue, it was green, and that's what didn't make any sense to me. When she came out a the bathroom she was standing there and I asked her if she was alright and she said yes and then I said ok well let's go and she started heavin' again. So I just picked her up and ran out a the camp-, uh, ran out a the camper and...

Q. To do what?

A. To bring her home.

Q. Ok.

A. And Julian and I, he saw what was goin' on and he called for Barry. And I guess Barry had checked on her when she was underneath the camper...

Q. Did you see that?

A. ...at... No, I didn't see it, everybody said that he had done that. And asked her if she was ok, you know.

Q. Who, who, who told you that he had come to check on her?

A. Julian, Don, couple a other people, my sister and there was a couple of _____.

Q. Ok. So you literally pick her up. Does she complain of any pain when you pick her up?

A. No. She didn't at all.

Q. Um, did you see what she was doing prior to her going into your trailer, into the, uh, camper?

A. No, I didn't. The only thing I saw was at 3:30 when she was ridin' her bike, that was it.

Q. Do you know, or area aware, that she was playing with your children? First of all,...

A. She...

Q. ...how many children do you have?

A. I have three boys.

Q. Three boys.

A. With me.

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Q. And starting at what age?

A. Five years old, two years old and one years old.

Q. Ok. Now allegedly there was something said about one a your sons, um, allegedly striking her with a stick.

A. See that, the thing is is that's what I was told like three or four days after...

Q. By whom?

A. ...the fact of her dying.

Q. By whom were you told this?

A. I was told by Pete and Don, who live in the front apartments. They heard a rumor from somebody else. And then...

Q. Is this another Don? Not Julian's Don?

A. No, this is another Don.

Q. Oh.

A. The manager of the apartment complex, Judy Chavez, said that somebody told her that my son, Ryan, the meanest one, and then she says, wait a minute, Barry's daughter, Brandi, said it, that Ryan had hit Rachel in the stomach with a stick.

Q. And how old is Ryan?

A. Ryan's two.

Q. Two years old, the one I just saw...

A. Uh huh (yes).

Q. ...in diapers...

A. Yes.

Q. ...right now?

A. And granted, he may be mean sometimes but there's, he didn't have a stick, there was no sticks around them. And then some, one of the other kids said, no, it was something, a piece of metal, we looked around for it, there was no metal, there wasn't anything like that.

Q. Well has he ever struck any of the other children before?

A. He's, the bigger ones he does.

Q. But enough to cause a bruise or injury,...

A. Uh uh (no).

Q. ...somethin' that's evident?

A. No.

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Q. Now there's some rumors runnin' around the trailer park around, according to what you've heard around this time by now, huh?

A. Yes.

Q. But you don't know if, in fact, if, did you ask your oldest boy if he saw Ryan do that?

A. No I didn't, I didn't talk to him about that, I didn't ask him at all, I did ask Brandi, a couple days later she was over there with Barry's brother.

Q. And what did Brandi say?

A. Brandi said that she saw Ryan do that. She saw Ryan hit Rachel in the stomach, the only thing is is Brandi was not around the camper, anywhere around those kids, at all.

Q. Until, and this is at 5:15.

A. This is 5:15 in the evening...

Q. And..

A. ...she was not around and there was you know like eight or nine kids around there.

Q. And you never saw Brandi around.

A. Nope. Her, uh, Angela's daughter, her oldest daughter, if that's her daughter, I don't know, and the son, Rachel, Brandi was not there.

Q. So Rebecca or, uh, the oldest daughter and the the son that's deaf, he was there, too?

A. Yes, he was. They, he was riding his bike, the oldest daughter, the the blond, she has long blond hair, she was over in, like kinda in the driveway type, playing with, uh, Pauline, who lives in another trailer, with her kids, her daughter, Donna's.

Q. Ok.

A. And I guess Rachel had been playing with them, too.

Q. Did you ever notice any bruises on Rachel, old bruises, new bruises, whatever?

A. Just bruises on her legs, like falling down.

Q. Did you notice any on her arms?

A. No.

Q. What about black eyes?

A. I have never seen her with black eyes. What I have seen her with is bags under her eyes, like from lack of sleep.

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Q. Like, so there's like a discoloration under her eyes...
A. Yes.

Q. ...type thing?
A. Yes.

Q. So that's what you would term it as is like...
A. Yeah.

Q. ...a discoloration under her eyes.
A. See the manager over there said that she had black eyes, she didn't have black eyes, that's not what she had.

Q. Ok. According...
A. The thing is is...

Q. ...to you, she didn't have.
A. No I don't think that's what it is.

Q. Ok, alrighty. Um...
A. And I thought maybe, when I first saw it I thought maybe she had a disease or something that caused that, I didn't know, because I have seen, so I take care of children ____.

Q. So..

(sound of aircraft overriding)

A. ____

Q. Ok. Wait 'til that helicopter passes. So you pick her up and what is her reaction when you pick her up, how, is she limp, is she sittin' up, is she..?

A. She grabbed onto me and held on, she had her arms around my neck, she was choking me. She was just holding on, she had her legs wrapped around me, she didn't want to let go. And then when I ran around the corner, Barry was running towards us and the thing is is the man was concerned. At that time you know he was concerned and he asked her if she was alright, 'cause Julian had called him. And I told him when I handed Rachel to him, she went, she did go to him, you know willingly, it was pushed you know on Barry.

Q. Ok.
A. Um, he took Rachel and I told him, she needs to go to the hospital, she's sick.

Q. And why did you think she needed to go to the hospital?
A. 'Cause the color of her skin.

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- Q. And because..
- A. She was tryin' to throw up, maybe, you know I didn't know what was wrong with her. I didn't know, but I know she was sick. She looked sick, she acted sick, you know just the color of her skin and her tryin' to throw up but she was.. nothing came up but just heaving, dry heaves.
- Q. And you, just as a, as, as a neighbor, as a concerned person, you could tell she needed medical attention.
- A. Uh huh (yes). I wasn't the only one, I wasn't the only one there that day that thought that.
- Q. Ok. Now, let's see, did did, what does Barry, does Barry say anything when he takes her?
- A. He, he said, ok, thank you. He says I'll do that. They got in the van, after that, Barry, Rachel and Angela, they did not take the little boy that's deaf or their daughter, and they took off.
- Q. Did you s-, who did you see get in the van?
- A. Angela, Rachel and Barry.
- Q. You saw Angela get in the van.
- A. Yes, I did.
- Q. And you-, you're sure of that.
- A. I'm positive of that. And they...
- Q. How, how, where were you when you saw that?
- A. I was standing right, they drove by, I was, where I was standing at you can see their trailer. When they drove by, she is, she is in the passenger seat, they, the way they drive by.
- Q. Who's in the passenger seat?
- A. Angela.
- Q. And it's not her daughter.
- A. I, I don't understand.
- Q. Is, is it the oldest daughter, could you have mistaken her for the oldest daughter?
- A. No, that, it was Angela, I know, she, her oldest daughter has, Brandi has a light, a lighter color hair than Angela and Angela, um, Angela's daughter has blond hair, like a white-blond hair. And Rachel was in the middle. She was standing up and Barry was driving.
- Q. Which way ...
- A. And my husband can tell you that Angela was in there, too.

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Q. Ok, which way did they go?

A. They went out onto Belvedere and then they turned right, goin' down Benson Highway towards the fire station.

Q. Ok. Did they, uh, pass directly by your camper?

A. Yes, they did.

Q. Because there's another exit that they could've gone out, right?

A. No they pas-, yeah, they passed by our camper.

Q. Ok. And they turned going toward, um, well it would be west on Benson...

A. Going...

Q. ...Highway.

A. ...west, yeah, on Benson.

Q. Ok, do you know where they went?

A. No, I don't. I thought, to me, and my husband thought too, that you know they were takin' her to the hospital, we didn't know.

Q. Did they look like they were in a, in a rush, or were they just slowing...

A. Yes...

Q. ...driving out?

A. ...they did. They were in a rush.

Q. Ok.

A. There's a lot of bumps in the driveway over there, potholes, real bad, and the van was just bouncing all the way out.

Q. And Angela was in the passenger seat.

A. Angela was in the passenger seat.

Q. Did they look at you or look toward you...

A. Nope.

Q. ...when they were passing by?

A. No, they didn't look at anybody, they just kept on goin'.

Q. And you say your husband, Mike, saw them passing...

A. Yes.

Q. ...by too.

A. Yes.

Q. Ok. Have you ever seen, um, anything unusual with Rachel or

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any of the other children?

A. No.

Q. Belong to Angela or...

A. No, you know...

Q. ...Barry?

A. ...and that's really strange, I never, ever saw, I've, Barry is, I've never heard him yell, and over there, and in that little area right there, everything echoes.

Q. Mm hm (yes).

A. And I have never heard him yell, I never even heard her yell, every once in awhile she'd tell her kids to sit down, you know or behave. And otherwise you know that's about it. A couple a days before that I do remember hearing a little girl screaming but it didn't sound like it was coming from that direction, it came, you know like from another direction. But the way sound carries, I don't know.

Q. A couple of days..

A. Before that, like on a Friday.

Q. Uh huh (yes). What time was it?

A. It was about 3:00 o'clock in the morning.

Q. 3:00 o'clock in the morning!

A. They were bangin' on, they was building cabinets.

Q. Who was?

A. Barry and Angela, they were finishing cabinets or something like that, I don't know, they had wood in there, they were banging. And they had all their lights on, I got up to go to the bathroom, we didn't, our bathroom wasn't working right.

Q. So you have to go across the way to the..

A. You go across the way to the bathroom.

Q. To that, uh, it's a, it's a...

A. The shower room like.

Q. ...little building, shower room type thing.

A. Right.

Q. Uh huh (yes).

A. And all their lights were on, on...

Q. At 3:00 o'clock in the morning?

A. At 3:00 o'clock in the morning and it's on a Friday.

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- Q. And when do you hear the child scream?
- A. I had heard her when I was in the trailer. When I got back out of the bathroom and came back. When I heard...
- Q. What kind of scream is it? If you had to give a.. Describe it.
- A. I don't know.
- Q. Was it a hurting cry, was it a scream like a...
- A. Yeah.
- Q. ...scared or was it..?
- A. An ouch cry, yeah. Pretty much I think that. You know it coulda been something else. But there's no other kids around there that scream like that in any, none a the kids usually do that.
- Q. What do you mean scream like that, like..?
- A. Like the scream that I heard, I've never heard that you know, and it was, I know it's a little hard for you know to distinguish a boy from a girl's scream sometimes.
- Q. Uh huh (yes).
- A. But it did to me sound like a little girl scream. Didn't sound like a little boy at all.
- Q. Ok and you've never heard that, or you can't recognize whose voice it would have been or whose scream it would have been.
- A. No. If it, if, at that time if it was Rachel, I wouldn't have known, I really wouldn't have, because I've never heard her scream, I don't have any idea, I've heard her laugh. And she did laugh, she laughed quite often.
- Q. She laughed quite often?
- A. Mm hm (yes). And she, they never let her go very far from the trailer. And somebody, if, usually Barry or Angela were always outside watching to make sure that she didn't get hurt or one of the older kids was outside, but it was usually Brandi was outside.
- Q. And you do recall, well do you know what time it is about the time that you see, uh, the van passing by, and we're talking about what color van?
- A. It was 7:30 when that van passed by the second time, they came back the fir-, the the first time when they took off, they came back, 7:30 they left again, they didn't come back until about 9:30, it was almost 10:00 o'clock, it was well past dark. The first time it was getting sort of..
- Q. So the first time they leave is right after you give Barry,

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- uh, you hand Rachel to...
- A. By the time...
- Q. ...Barry.
- A. ...I mean it was a good 40 minutes, she was standin' there for a long time.
- Q. Who was standing there?
- A. Rachel.
- Q. Standing where?
- A. Standing in the camper. She was outside, I guess she was sitting underneath the camper, outside, for a long time and I didn't know that. And everybody told me that she was, you know hey, she's been under the camper for a long time, I said why, 'cause she was cold. Well...
- Q. So at 5:15 is when you noticed that she was inside your camper?
- A. Yeah, she walked in, everybody was pointin' towards the camper and it was 5:15, 'cause I looked at my watch. 'Cause we were talkin' about gettin' ready to barbecue.
- Q. Now when you hand her over to Bi-, to Barry, how soon after that did they get in the dri-, in the van and drive away?
- A. It was about, it was about 20 minutes.
- Q. Ok and who, whose van is it?
- A. I don't have any idea, I think it's Barry's...
- Q. What..
- A. ...it's a...
- Q. What color?
- A. ...canary yellow.
- Q. Canary yellow van. And you say who's in the van again, at this time, 20 minutes after you hand her to, over to 'em?
- A. Barry Jones, Angela Gray and Rachel.
- Q. Ok.
- A. That was the only three in there.
- Q. Then do you see the van another time?
- A. They, I didn't see 'em come back.
- Q. Ok.
- A. They took off again, the second time they took off was, they didn't pass by us, they went out the other way and passed on the road, and we seen 'em on the road, and they were heading

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towards the fire station again. At that time, I don't, he had to have been drivin', he always drives the van. She may not have been in there, she may have been in there, but I'm not sure about that.

Q. Who she?

A. Angela.

Q. Ok, did you see the baby in there?

A. No.

Q. Rachel?

A. At that time I didn't.

Q. And this is at what time, 7:30?

A. 7:30, exactly 7:30.

Q. Is it dark by now?

A. Oh yeah.

Q. Ok. And they are going..

A. West on Benson...

Q. Westbound...

A. ...Highway.

Q. ...on Benson Highway. Ok. And you just, you just say they're going towards this fire station, just to give you a sense of direction?

A. Yeah.

Q. Ok. Do you see it another third time?

A. When they came back it was about 9:30.

Q. So from 7:30 you see it leave and then again you see it at 9:30 coming back.

A. Yes, it was pretty close to 9:30, it was almost 10:00 o'clock, they did come back about that time.

Q. And who's in the tr-, van at this time?

A. I saw Barry, that's all I saw, I didn't see anybody else.

Q. Ok and when it was going out at 7:30 you just Barry as well?

A. I, well, I didn't really pay attention, I think it was Barry driving, looked like Barry anyway.

Q. And it looked like he, was he a sole occupant of the van?

A. I don't remember. I really don't remember. He mighta been and he might not a been. But it was really funny that they kept leavin' and comin' back, leavin' and comin' back.

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Because he said that he was going to take her to the hospital. When I handed him to her, or handed her to him, I'm sorry, and told him to, you know you need to take the baby to the hospital, she needs to go, she's sick, and he says, ok, thank you, and he asked her if she was alright, and she shook her head yeah.

Q. Did you see Rachel on her own walkin' around the trailer park or anywhere after that, after you handed her to Barry, did...

A. No.

Q. ...you see Rachel walkin' around on her own?

A. No, I didn't.

Q. Did you see, uh, any other strange vehicles or anybody that you could see go into Barry's house?

A. Yeah.

Q. The trailer.

A. A little, a little black sports car type, I don't know whose it is, I don't know...

Q. Do you know what time that was?

A. Um, that was probably about 9:00. But the car stayed there, it didn't go anywhere. It, it didn't leave, they came back, they didn't go anywhere, I don't know if that car was for there or not, but it was...

Q. Could a been ...

A. ..right...

Q. ...for..

A. ...in front of their house.

Q. Then it could've been for someone else's place. 'Cause it didn't leave you say.

A. It stayed, well see the lights were still on in Barry's house though, at that time. And Angela can tell everybody she wasn't there, but she's lying, she was there.

Q. How do you...

A. She may have left, she may not have come back at, you know like 9:30, you know almost 10:00 o'clock, she may not have been there, but I saw her come out of the house with a bag of trash at about 8:00, it was.. you know what, to come to think about it, Barry was the only one drivin' the second time. 'Cause she came out and took the trash outside, ou-, right out to the dumpster.

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Q. So we're talking 5:15 and then you hand the baby to him, um...

A. That was about..

Q. ...and then 20 minutes later, about what, a quarter 'til or 20 'til 6:00 is when you see the van go by with Angela, Barry driving...

A. Yes.

Q. ...Angela's in the passenger seat and Rachel's in the middle between the seats.

A. Rachel was standing up in the middle. On the console thing. And she had one arm here and one arm on the other side.

Q. Hangin' onto both seats.

A. Yes. And I didn't, I thought it was really funny.

Q. What?

A. And I thought that they were takin' her to the hospital, you know or to the doctor's or wherever.

Q. What was funny about it, to you?

A. Her standing up on a console in the middle of it, there's seats in the van, that's what didn't make any sense, but she was holdin' on.

Q. There's seats in the van?

A. Yes, there is.

Q. Where?

A. There's two front seats, if I'm correct, I may be wrong, but there, I think there are back seats. Or there were back seats.

Q. Ok. Alrighty.

A. I'm not sure, I don't remember. But I do know that..

Q. And you saw Angela comin' around, what time, to throw the ga-, the garbage out?

A. It was like 8:00, a little after 8:00.

Q. And the first time you saw Angela that day was at 3:30 in the afternoon.

A. Was at 3:30 in the afternoon.

Q. Then you saw her again in the van leaving at about a quarter to 6:00 or so.

A. That, yeah.

Q. Ok.

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A. It was about that time, it was startin' to, wasn't dusk but it, well it was just goin' that way, so.

Q. And you said that, that Rachel was wet.

A. Yes, she was soaking wet. She was soaking, soaking wet, I mean..

Q. And you didn't notice any bleeding on her.

A. No I didn't.

Q. Is there anything else you'd like to add that I haven't asked you?

A. I just, I don't know. What was she wet from, you know I don't have any idea. Um, oh, yeah, also, too, the rumor that my two year old pushed her out of a van, no, my son wasn't over there, my son was not around that van at all, he stays around our yard, our, you know right around our lot, our space.

Q. What about your older boy?

A. My older boy was right in front of our camper or he was right over by another space by the shower room, by that little building.

Q. Ok.

A. And he was with a lady named Pauline, she, he was with her three, she's got two boys and a little girl.

Q. And did you notice any kids playing over by their van?

A. Nope.

Q. Earlier that evening?

A. There was no kids playing over there. None whatsoever, all the kids were over by, all all of 'em, I mean the whole neighborhood over there was over by our camper, not necessarily our camper but just around. They had toys out, they had the little scooters out and they had bicycles out.

Q. Ok.

A. Angela's daughter, her oldest, was jump-, jump-roping.

Q. Mm hm (yes). Is there anything else that I haven't asked you that has come up?

A. No, not that I can think of, except for Brandi, I don't understand Brandi at all.

Q. Because she tells you she was there and saw your son hit..

A. Mm hm (yes). She said she saw, and then she said somethin' to somebody else that he pushed Rachel out of the van you know.

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- Q. And in fact you never saw Brandi around there.
A. She was not around there at all, that's what doesn't make any sense.
- Q. Ok.
A. She had, she had some of her friends, she's got two little girlfriends that comes over, they're her friends and they leave, they walk off, so I don't, you know, she wasn't there, she was nowhere around. And with Brandi, you'd a known if she was around, 'cause she's got a big mouth.
- Q. And she's an older child, too.
A. Um..
- Q. Um, you'd be able to tell...
A. Yeah.
- Q. ...if she was there.
A. Oh yeah.
- Q. Ok.
A. Oh yeah.
- Q. Well unless you have anything else to add, I can conclude this statement.
A. No I'm fine.
- Q. Ok, that you very much. The statement will be concluded at approximately 1500 hours, same date. If there's anything else, uh, Stephanie, um, can I come back and talk to you?
A. Yes.
- Q. Ok, thank you very much.

WITNESS:


DET. RANKIN #672

TRANSCRIBED BY:

C. PENN, JUNE 3, 1994

REVISED JUNE 9, 1994, PER DET. RANKIN

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Exhibit 21

LESLIE BOWMAN
DEFENSE COUNSEL

INTERVIEW

State of Arizona v. Barry Lee Jones Date: March 22, 1995

Witness: Stephanie Fleming Case Number: CR-45587

Attorney: Leslie Bowman

Interviewer: Leslie Bowman

LB: = Interviewer Leslie Bowman - Defense Attorney

SF: = Stephanie Fleming - Witness

DD: = David Darby - For Angela Gray

ME: = Mitch Eisenberg - County Attorney's Office

DD: Okay.

LB: Okay. Ah... it's Wednesday, March 22nd... at about 10:10 a.m.

We're in ah... the courtroom... Judge Carruth's Courtroom at

the Superior Courthouse. This is Leslie Bowman on behalf of

Barry Jones. Ah... also present is David Darby for Angela

Gray and Mitch Eisenberg... for... the County Attorney.

(Pause) We're here for the interview today of Stephanie

Fleming. Ah... F..l..e..m..i..n..g. (Pause) Miss Fleming

ah... can we just start out by getting you to tell us how old

you are?

SF: I'm twenty four (24).

LB: Okay and are you currently employed?

SF: I take care of my Grandmother.

LB: Okay. Ah... do you have ah... children?

SF: Yes I do.

LB: Can you tell me their names and ages?

SF: Patrick Michael Thorn and he's six (6). Ah... Ryan Neil

Thorn, three (3). Andrew... huh... Andrew Dale Fleming and

1 he's gonna be two (2).
2 LB: Okay. Ah... Ryan is three (3) right now?
3 SF: Right.
4 LB: Okay. (Pause) Do you know Barry Jones?
5 SF: Not very well no.
6 LB: Okay do you know him at all?
7 SF: I know who he is yeah.
8 LB: Okay. How did you come to get to know him or to ever meet
9 him?
10 SF: Through his girlfriend.
11 LB: And who is that?
12 SF: Angela Gray.
13 LB: Okay. Do you remember about when it was that you first met
14 these folks?
15 SF: (Pause) No.
16 LB: Okay. Well let me try to orient you a little in terms of
17 time. Ah... this whole incident with Rachel happened like
18 April 30th, May 1st of last year. Do you recall how long
19 before this, you had met those two (2)?
20 SF: About a month.
21 LB: Okay. And how did you come to meet them?
22 SF: Because they had puppies. And I... I had seen a puppy and
23 asked them if they knew where I could get a puppy... and they
24 said yeah right next door.
25 LB: Okay.
26 SF: And that's how I met them because I wanted one (1) of their
27 puppies.

1 LB: And you were ah... living in the same trailer park that they
2 were living in?
3 SF: Right.
4 LB: How long had you been living there?
5 SF: (Pause) Since the beginning of March. But I had lived up in
6 the front. Before that.
7 LB: Okay. When you say in the front, there's like a building with
8 sort of little apartments or something?
9 SF: Correct.
10 LB: Ah... how long did you live in the front?
11 SF: For three (3) months.
12 LB: Okay. So you'd been there approximately since the beginning
13 of the year?
14 SF: Right.
15 LB: But you had not met ah... or... or come to know Barry Jones
16 until sometime like... the end of March, beginning of April?
17 SF: That... that was... yeah about that time.
18 LB: Okay. Ah... did you have an opportunity to meet any of the
19 children that lived with Barry and Angela?
20 SF: Oh yeah. We... we met them all. They all used to play around
21 there.
22 LB: Okay. Ah... do you recall their names?
23 SF: Just Rachel and... (pause) not now I can't.
24 LB: Okay ah... was one (1) of them Brandy Jones?
25 SF: Yeah Brandy.
26 LB: Okay did you ever meet Rebecca or Becky Lucks?
27 SF: She was blonde?

28

1 LB: Ah-huh.
2 SF: (Inaudible).
3 LB: And how about ah... Johnny? Johnny Lucks or Jonathan Lucks?
4 SF: That's ah... the oldest boy?
5 LB: Right.
6 SF: Yeah. My husband fixed his bicycle one (1) time.
7 LB: Okay. Ah... so... when you say that they... they all played
8 around, did they play with your kids?
9 SF: Sometimes not very often, 'cause my... my oldest boy would
10 play with ah... Brandy. They always played... and they played
11 in the dirt, you know made mud and stuff.
12 LB: Okay. And now your oldest boy you said was how old?
13 SF: He just turned six (6).
14 LB: Just turned six (6), okay. So he's really much younger than
15 Brandy?
16 SF: Ah-huh.
17 LB: Okay. Ah... but she played with him sort of watching him or
18 just...
19 SF: No she always wanted to babysit him and I said no. She was
20 too young.
21 LB: Okay. Do you know how old she is? Or was?
22 SF: No.
23 LB: Okay. Ah... (pause) can you tell me how many times do you
24 think that you had contact or saw Rachel?
25 SF: About seven (7) maybe.
26 LB: Okay.
27 SF: Maybe... maybe about seven (7) times.

1 LB: Alright. And in general what... what would the situation be
2 like when you see her or talk to her?

3 SF: Well I went over the first time I went over I saw her when I
4 asked about the puppy. And the second time I went over... to
5 give (inaudible) ah... Rachel's little bike back.

6 LB: Okay. Ah... how did... how did you end up with Rachel's bike?

7 SF: She left it over by ah... where we lived at. By where our
8 trailer, my lot space was.

9 LB: Okay. And do you know about how far your space was from ah...
10 Barry and Angela's?

11 SF: I couldn't tell you the feet.

12 LB: Okay. Could you see it?

13 SF: Oh yeah.

14 LB: Okay.

15 SF: Yeah you could look (inaudible) and see it.

16 LB: Okay. Ah... and what was Rachel like when... when you saw
17 her?

18 SF: She was always happy. She was... and the first time I met her
19 she had just learned how to ride the bike. Her little bike
20 without training wheels.

21 LB: Okay. That's pretty good, she was little.

22 SF: (Inaudible).

23 LB: Ah... when you say she was always happy, did she talk to you?

24 SF: Yeah she... she kept saying ah... looky... looky I learned how
25 to ride my bike.

26 LB: Okay.

27 SF: And it was the first time I had ever met her and she was
28

1 really happy about it.

2 LB: Alright.

3 SF: (Inaudible).

4 LB: Ah... did she... was she playing with your kids or she was

5 just near your... your place?

6 SF: No first time is when I went over there to find out about the

7 puppy.

8 LB: Okay. And how did she appear to you at that time?

9 SF: She... she was fine.

10 LB: Okay.

11 SF: That's when she was telling me about riding the bike, learning

12 how to ride a bike.

13 LB: Okay. Ah... from your... just your experience as a mom and

14 you know seeing kids around, was she a small kid? Rachel?

15 SF: Yeah she was, she was small.

16 LB: And I... I noticed ah... in some of the statements she was

17 described as like real skinny. Was she always like that?

18 SF: Yeah as far as I knew. But my oldest son is also skinny.

19 LB: Okay.

20 SF: He's just... that way.

21 LB: Okay. Ah... during these... approximately seven (7) times

22 that you had some kind of contact with Rachel, did you ever

23 notice anything ah... like any bruises or...

24 SF: No I did not.

25 LB: ...any scrapes, cuts...

26 SF: No.

27 LB: ...black eyes. Anything like that?

1 SF: No. (Inaudible).
2 LB: She looked perfectly fine?
3 SF: She looked perfectly fine.
4 LB: Okay.
5 SF: Every time.
6 LB: And... was she ah... usually dressed appropriately?
7 SF: Yes she was.
8 LB: Okay. Had you ever had an opportunity to like take care of
9 her, babysit her, that kind of thing?
10 SF: No the day that ah... the day she died, that's when I went
11 over to ask Angela about it because she asked me if I would
12 babysit.
13 LB: Okay.
14 SF: And to come over and talk to her about it because she had to
15 talk to Barry first.
16 LB: Okay. Ah... now... let's go... let's go back to... to the
17 beginning of that day. Ah... well first of all what was the
18 last time before that, that you had seen her?
19 SF: The night before.
20 LB: Okay so you saw her Saturday night?
21 SF: Right.
22 LB: And what was the... the occasion?
23 SF: She was fine. I went... that's when she asked me to baby...
24 if I would babysit. Come over the next day.
25 LB: Okay did Angela come...
26 SF: (Inaudible).
27 LB: ...to your place to ask you that?

1 SF: Yes she did.
2 LB: And she had Rachel with her?
3 SF: Yeah.
4 LB: Okay. Where... were you inside or outside or where were you
5 when...
6 SF: I was standing inside, she was standing outside.
7 LB: Okay. And she came what knocked on the door...
8 SF: Ah-huh.
9 LB: ...and got your attention.
10 SF: Yes.
11 LB: And asked you if you might be able to babysit the next day?
12 SF: Asked if I would mind.
13 LB: Okay.
14 SF: Would it be a bother and she told me how many kids she had.
15 LB: Okay.
16 SF: That were there.
17 LB: So it would have been for all four (4) of the kids?
18 SF: Yes.
19 LB: Alright. Ah... and you agreed that you would do it but it
20 wasn't finalized?
21 SF: Right I agreed. I said I would.
22 LB: Okay.
23 SF: And she said she would have to talk to Barry to make sure it
24 was okay (inaudible).
25 LB: Okay. Ah... had you ever had an opportunity to babysit them
26 before?
27 SF: No.

1 LB: Had she ever asked you to babysit them before?
2 SF: Not before that no.
3 LB: Okay. And ah... it sounds like at that point... how many
4 times had you met Angela?
5 SF: Just as many times as the first time I... when I saw the
6 puppy. About seven (7).
7 LB: Okay.
8 SF: I didn't (inaudible).
9 LB: Would you consider yourself friends?
10 SF: No.
11 LB: It's just that you lived there and you sort of knew each
12 other? Okay. Ah... and when you saw Rachel on Saturday was
13 there anything unusual about her? Any scrapes, bruises, cuts?
14 SF: The day before... no. There... I... there was no bruises that
15 I could see.
16 LB: Okay. Do you remember what she was wearing, what Rachel was
17 wearing?
18 SF: The day before?
19 LB: Yeah.
20 SF: I think she was wearing pants and a shirt.
21 LB: Like long pants?
22 SF: Yeah.
23 LB: Okay. Do you remember...
24 SF: Or shorts or something.
25 LB: Okay and the shirt do you remember if it was short sleeved or
26 long?
27 SF: It was long sleeved.

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03644

1 LB: Okay. Ah...
2 SF: As a matter of fact it was a little turtle neck.
3 LB: Okay so basically... in terms of her body all you'd be able to
4 see would be like her face and he hands?
5 SF: Right.
6 LB: Okay and you didn't notice anything...
7 SF: No.
8 LB: ...unusual? Ah... how about like her... her pallor? What was
9 her skin tone like?
10 SF: It was normal. It was normal color the day before.
11 LB: Okay. She looked healthy and...
12 SF: She was... yeah she was riding her bike that day too.
13 LB: Okay.
14 SF: And she was normal color.
15 LB: Okay.
16 SF: She did not look like she had any black eyes whatsoever,
17 'cause I'd of noticed right away.
18 LB: How far away from her were you about? On that Saturday?
19 SF: I was right... right... standing right in front of her.
20 LB: Okay.
21 SF: You know.
22 LB: Ah... then the next day was Sunday.
23 SF: Right.
24 LB: Can you just sort of start me at the beginning of the day and
25 take me through... how your day went? You know what time you
26 woke up and... and what you did?
27 SF: We woke up about nine o'clock (9:00) with the boys, our boys.

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03645

1 Me and my husband's boys. And they ate breakfast, we ate
2 breakfast and... we... that day was supposed to be his
3 birthday party.

4 LB: Your husband's?

5 SF: Right. (Inaudible).

6 LB: Was your husband awake when you all woke up. Did he wake up?

7 SF: Yeah.

8 LB: At nine o'clock (9:00)?

9 SF: Yeah.

10 LB: Okay.

11 SF: Yeah he was half in and out.

12 LB: Okay.

13 SF: And ah... we fed the boys and we sat there and... ah... I was
14 supposed to go over as soon as ah... Barry's door was open.
15 'Cause normally when the door was open that's when they were
16 awake. And found out if... you know when I was supposed to
17 start babysitting.

18 LB: Okay.

19 SF: Or when, if it was going to happen.

20 LB: Was it supposedly going to be like an evening thing? Or...

21 SF: Right.

22 LB: Okay. Alright so...

23 SF: 'Cause I know... I babysit... at you know other people's kids
24 and I usually had five (5) or six (6) kids running around,
25 besides my own.

26 LB: Okay. And was this something where like they were going to
27 pay you to babysit or was it just a favor?

1 SF: No they were going to pay me.
2 LB: Okay.
3 SF: They were going to pay me.
4 LB: Alright so you all woke up, you, your husband, the three (3)
5 boys. You had breakfast, it's like nine o'clockish (9:00),
6 what... what was the next thing that happened?
7 SF: Well we probably... I think we went to the store or something
8 and came back.
9 LB: Okay.
10 SF: And we just sat around all day pretty much.
11 LB: Were you inside or outside if you recall?
12 SF: We were outside.
13 LB: Okay.
14 SF: Outside 'cause it was too hot to be inside.
15 LB: Alright.
16 SF: We didn't have a cooler.
17 LB: Ah... and what were the boys up to? Were they right in your
18 view?
19 SF: Yeah. They were right there where we could see them. That...
20 a friend of ours was fixing his car stereo. And my husband
21 was kind of sort of trying to help him. And my husband's
22 friend Chuck was there.
23 LB: Okay. Was anyone else there?
24 SF: Not at that time, just John and Chuck and my husband and I.
25 LB: Okay. Ah... and what was the next thing of significance that
26 happened? You're outside, the kids are sort of playing around
27 or what?

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03647

1 SF: Well I looked over at three o'clock (3:00) that afternoon and
2 Barry's door was open.
3 LB: Okay.
4 SF: So...
5 LB: How do you remember it was three o'clock (3:00)?
6 SF: How? 'Cause I looked at my watch.
7 LB: Okay.
8 SF: I looked at my watch and John said something about... about
9 having to pick up his wife. And he... she got off at four
10 (4).
11 LB: Okay and who's John? The guy that...
12 SF: The guy that was fixing his radio.
13 LB: Okay. Ah... and you looked over and saw the door open. It
14 was three o'clock (3:00). Then what did you do?
15 SF: I went over there.
16 LB: Okay and... and did you what knock on the door or just holler
17 in or...
18 SF: Well I went in the gate and I stood you know on the steps and
19 Angela was sitting on the couch.
20 LB: Okay.
21 SF: And I asked her if I was going to babysit and she said no.
22 LB: Did you go inside or you just talked to her from outside?
23 SF: I just talked to her from outside.
24 LB: Do you remember what she was wearing?
25 SF: No.
26 LB: Was she dressed or like in pajamas or...
27 SF: No she was in a bathrobe.

1 LB: Okay.

2 SF: She was in her bathrobe.

3 LB: Do you remember what color by any chance?

4 SF: No.

5 LB: Okay.

6 SF: Actually she was in her bathrobe, she had a towel around her

7 head. And I asked her if she was gonna... need me to babysit.

8 That's what it was and she said no.

9 LB: Okay. Do you recall if anyone else was there with her?

10 SF: I know I saw Angela, that's all.

11 LB: Okay you didn't see any other kids or Barry?

12 SF: Well the kids were over at my house playing.

13 LB: Okay, so the kids were definitely not at the trailer then?

14 SF: No.

15 LB: And when you say all the kids, it was all four?

16 SF: Uh, Rachel was still at the house, she was outside out in

17 the front yard, in their front yard.

18 LB: Okay did you notice what she was doing?

19 SF: She was playing with her bike, and the puppy.

20 LB: Okay uh, and did you see Barry around at all?

21 SF: No I did not, (inaudible).

22 LB: Did you happen to notice if his van was parked there?

23 SF: I think his van was, I'm not too sure.

24 LB: Okay, uh, can you describe his van?

25 SF: Yellow, canary yellow, wasn't hard to miss.

26 LB: Was there anything unusual about it beside from the

27 bright color?

1 SF: It was canary yellow.

2 LB: Okay, did you recall like did it have windows just in the
3 front, or did they go all the way around?

4 SF: All the way around.

5 LB: Okay, um, and how did you know that was Barry's van?

6 SF: Because it always parked in front of his trailer, and he
7 was the one always driving it.

8 LB: Okay, um, so you asked Angela if she needed you to
9 babysit and she said no?

10 SF: That's was she said.

11 LB: Was there anything else, any other conversation that went
12 on at that time?

13 SF: No.

14 LB: Um, and then from there you just went back to your place?

15 SF: Right.

16 LB: What happened, what was the next thing that happened that
17 you recall?

18 SF: Some friends of ours came over.

19 LB: Okay, this was for your husband's party?

20 SF: Right.

21 LB: Do you recall which friends?

22 SF: Julian Duran, and Dawn Cop, uh, May, I don't remember her
23 last name, my husband's girlfriend now.

24 LB: Okay.

25 SF: And his best friend was there, my sister was there, she
26 showed up with her friend Bill.

27 LB: Okay, and who's his best friend, who's Michael's best friend.

1 SF: Uh, his name is Chuck, Chuck Ferrera.
2 LB: Okay, and what's your sisters name?
3 SF: Erica Thorn.
4 LB: Okay, um, so what time about do you think these people
5 all showed up?
6 SF: About 3:30. See Julian Duran and his girlfriend Dawn
7 were standing in the front. They lived right in the
8 area.
9 LB: Okay, alright, uh, up until 3:00 had you been drinking
10 anything alcoholic?
11 SF: I had one beer, there was no other beer in the frig.
12 LB: Okay, um, had you used any kind of drugs?
13 SF: No I did not.
14 LB: Okay, no methamphetamine's?
15 SF: No.
16 LB: When was the last time you had used any kind of drugs
17 before that? Let me add something in here, your not on
18 trial so the things that your saying are not to get you
19 in trouble, it's just for my information in terms of what
20 your state of mind was like at the time that these things
21 were going on.
22 SF: Alright, It was a while before that.
23 LB: Like a day, a week, a month?
24 SF: No, it was over that, I was living, the last time I had
25 done anything I was living with Julian, and that was in
26 February.
27 LB: Okay, so you say it had been a couple of months since you
28

1 had done any kind of drugs?
2 SF: That's right.
3 LB: Okay, um, including like marijuana.
4 SF: I don't smoke marijuana.
5 LB: Okay, how about any prescription drugs?
6 SF: Yeah, I was on prescription drugs.
7 LB: And what was that? If you remember.
8 SF: It, SMA.
9 LB: What is that?
10 SF: It's for urinary track infection.
11 LB: Ok, um, and had you taken that drug that same day?
12 SF: Oh, yeah.
13 LB: Okay.
14 SF: Because I had gone a couple days before that and gotten
15 it.
16 LB: Uh, and so before 3:00 you had one beer out of the
17 refrigerator?
18 SF: Right.
19 LB: Okay, and as the party started um, was there alcohol or
20 beer there.
21 SF: Yeah, there was.
22 LB: Okay, and were you drinking?
23 SF: No, not really, I had one beer and I just let it get
24 warm. Because I don't really drink beer, I don't drink
25 a lot of beer at all.
26 LB: Okay, um, was there any other alcoholic beverage that you
27 or anyone else was drinking that day?

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03652

1 SF: No.

2 LB: Were the other people that were with you drinking beer?

3 SF: Um-huh, except for Chuck, Mike's best friend, because he

4 doesn't drink, and uh, my sister I don't think was

5 drinking either, and Bill definitely wasn't drinking.

6 LB: How much beer was there at the party?

7 SF: There was a 12 pack in the frig, or it was a 18 pack,

8 something like that.

9 LB: So if I told you that other witnesses that were there

10 told me that you had drank quite bit that would not be

11 true.

12 SF: That's not true, that's not true at all.

13 LB: Okay, how long did the party go on?

14 SF: Till about 11:00, 12:00 that night.

15 LB: And was there also food involved with this party?

16 SF: Yes, we were suppose to have a barbecue.

17 LB: Did you?

18 SF: Yes we did.

19 LB: Okay, and what time what that at about?

20 SF: We were suppose to start cooking at 5:00 o'clock.

21 LB: And what time did you start?

22 SF: Around that time.

23 LB: Okay, do you recall what it was that you cooked that day?

24 SF: It was steak, potatoes, and corn on the cob we had

25 wrapped in tin foil.

26 LB: Okay, uh, now what time was it that uh, that Rachel came

27 over?

1 SF: She came over about 4:30 maybe, I'm not sure, I don't
2 remember now what time it was.
3 LB: Okay, but it was definitely after 3:30 when everyone
4 showed up?
5 SF: Right.
6 LB: And definitely before you started cooking which was some
7 time around 5:00 o'clock?
8 SF: Right.
9 LB: Okay, um, and how was it that you saw her first?
10 SF: When I was, I didn't see her before she came over was in
11 my camper bathroom trying to throw up.
12 LB: And how did you become aware of that?
13 SF: I looked, well she, when I looked up she was going into
14 the camper, she didn't ask, she just went in and opened
15 the door and I asked her if she was okay.
16 LB: Had she ever gone in before?
17 SF: No.
18 LB: Even invited, she had never been in there?
19 SF: No, she had never been in there.
20 LB: Okay, um, do you think she's pretty comfortable with you?
21 SF: She seemed to be.
22 LB: Okay, I was thinking back when you said she was so
23 excited in telling you about her bike.
24 SF: Yeah.
25 LB: Like she considered you friendly or a friend.
26 SF: Yeah she was comfortable.
27 LB: Okay, and you saw her walking through the door into the
28

1 camper.

2 SF: Yeah.

3 LB: And you asked her if she was okay, and what did she tell
4 you?

5 SF: She shook her head yeah.

6 LB: Okay, when you were talking to her and you looked at her,
7 what did you think?

8 SF: She looked sick, she was like green, a greenish grey
9 color, really paleish like a puckish color, she looked
10 really sick, she did look sick.

11 LB: Okay, uh, did you recall what she was wearing?

12 SF: She was wearing a, I do believe a tank top, and shorts,
13 yeah shorts.

14 LB: Did she have shoes on, do you remember?

15 SF: Yeah, she had sandals.

16 LB: Sandals?

17 SF: With socks.

18 LB: Okay, uh, do you remember what her hair was like, was it
19 in pony tails, or was it down?

20 SF: It was in pony tails, one on each side, and not all of
21 her hair was in pony tails just part of it.

22 LB: Okay, kind of just the front part?

23 SF: Uh-huh.

24 LB: Um, you asked her if she was OK, she said yes, that what
25 did she do?

26 SF: Well she started, when I asked her if she was okay, was
27 after she was done trying to throw up in my toilet.

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1 LB: Did you see her doing that?
2 SF: Yes.
3 LB: Okay so in other words you didn't talk to her as she
4 walking into the trailer, you just watched her walk in?
5 SF: We just watched her walk in, and then I got up and went
6 in, and I figured that she had to use the bathroom, and
7 I opened the bathroom door for her and she was trying to
8 sick in the toilet.
9 LB: Okay, what exactly was she doing?
10 SF: She had her hand over her mouth and she was heaving.
11 LB: Like leaned over the toilet or on her knees?
12 SF: Well she was doing this before as soon as she started to
13 step in the bathroom.
14 LB: Okay, did she actually vomit?
15 SF: No she didn't.
16 LB: And so at what point exactly did you ask her if she was
17 okay.
18 SF: Right after she was done heaving, she stopped, she
19 stopped trying to get sick, and she shook her head yeah,
20 so I picked her up and brought her out and I was gonna
21 tell Barry you know bring her to the hospital, I was
22 gonna bring her home, but Barry came running up to us and
23 took her, she went to him.
24 LB: Okay, and so I mean obviously you had close contact with
25 her, she was in your arms?
26 SF: Yes she was.
27 LB: Did she feel hot?

28

1 SF: No, she was soaking wet all over.
2 LB: Her clothes?
3 SF: Yes.
4 LB: Her socks, her hair, everything?
5 SF: Everything.
6 LB: Okay, um, did you ever know, or did she ever tell you how
7 she got soaking wet?
8 SF: No, she never said anything. I know the kids said that
9 she was underneath the trailer, our camper which we had
10 closed off with curtains cause we had stuff stored under
11 there, and she complained that she was cold, that's what
12 they said.
13 LB: When you say they, was that your boys?
14 SF: My oldest, my oldest son and Pauline's kids that live
15 just diagonal from us.
16 LB: Okay, what are Pauline's kids names?
17 SF: Mama's, and I can't remember what her boy's names.
18 LB: Do you know about how old they are?
19 SF: Uh, four, seven and nine.
20 LB: Okay and which one's are the boys?
21 SF: The oldest one's.
22 LB: The seven and nine, or about that age, Okay, about that
23 time did you notice anything else about Rachel in terms
24 of any cuts, bruises, scrapes? Nothing no blood.
25 SF: No blood.
26 LB: No black eye's.
27 SF: No.

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03657

1 LB: And no bruises anywhere on her face, arms, or hands or
2 anything like that?
3 SF: No.
4 LB: Is it that you didn't notice, or did you actually look at
5 her and they were not there.
6 SF: I looked at her, there were no bruises there, not at that
7 time there were not.
8 LB: Nothing, not even a little red mark, nothing?
9 SF: No, and if there were bruises at all it's the color of
10 her skin, (inaudible). Because she was the color of an
11 old bruise.
12 LB: Her whole body?
13 SF: Yes.
14 LB: Okay, uh, when you picked her up, was she comfortable in
15 your arms, or did it seem like anything was hurting her?
16 SF: She was comfortable.
17 LB: Okay, it's not like you touched a spot that might of
18 hurt, or.
19 SF: No, she had her arms around my neck.
20 LB: Okay, did you have an idea of about how much she weighs?
21 SF: She probably weighed thirty pounds.
22 LB: Okay.
23 SF: Not less.
24 LB: How much do your kids weigh?
25 SF: Well, my oldest over forty pounds, my little one is
26 almost forty, and the baby weighs about twenty-five,
27 thirty.

28

1 LB: You said when you went out Barry came running. Do you
2 know why he was in such a hurry?
3 SF: No.
4 LB: Okay, and you said that.
5 SF: Oh yeah, because Dawn started yelling for Barry to come
6 because Rachel was sick.
7 LB: Did you hear Dawn yelling?
8 SF: Yeah.
9 LB: Okay, um, did she go over there?
10 SF: She started to.
11 LB: And then what?
12 SF: She was yelling, and she was walking towards Barry and he
13 got it, I guess he came, no he started running.
14 LB: Why was Dawn so startled, I mean why was she yelling and
15 running as opposed to just like, Hey, you know.
16 SF: Because of the color of her skin.
17 LB: It was scary?
18 SF: Yeah, very scary. Because she looked sick. Something
19 was wrong with her and nobody knew what.
20 LB: Okay, so it wasn't the kind of sick, like a stomach flu
21 or something?
22 SF: No.
23 LB: Okay, you said that she went to Barry without any
24 problem?
25 SF: At first she wouldn't and then she did.
26 LB: What do you mean, at first she wouldn't.
27 SF: She kept holding onto me.

28

1 LB: Okay, um did she seem like she was resisting going to
2 him?
3 SF: No, not really.
4 LB: Uh, and then she went to him willingly?
5 SF: Um-huh.
6 LB: And what he took her in his arms?
7 SF: Yes he did, then she put her arms on his back, and he
8 asked her, Are you okay?, and she shook her head.
9 LB: Shook her head yes?
10 SF: Yeah, and she said yes.
11 LB: Okay, um, Stephanie did you ever hear at any time, kids
12 or somebody in the trailer park saying that Ryan may have
13 hit Rachel?
14 SF: Yeah, the day that we found out that Rachel died.
15 LB: And what day was that?
16 SF: The next, well the next day.
17 LB: On Monday?
18 SF: The next morning, huh?
19 LB: Was it Monday morning?
20 SF: Yes.
21 LB: Okay, how did you hear this?
22 SF: Uh, somebody came and said something, oh well Brandy did
23 at first, came over and said that my Ryan did hit Rachel.
24 LB: She told you that not on Sunday, it was definitely
25 Monday?
26 SF: Right, nobody told us anything on Sunday?
27 LB: Okay, but she said that it was on Sunday when he had
28

1 supposedly hit her?
2 SF: Right.
3 LB: Did she say how he hit her with, or what the
4 circumstances?
5 SF: She said with a piece of metal that was on the ground.
6 LB: A piece of metal, what was your impression?
7 SF: She said of piece of metal like off of a car.
8 LB: Okay, uh, did she say how or where he supposedly hit
9 Rachel?
10 SF: In the stomach?
11 LB: Okay, now I noticed I think it was in your statement,
12 that you described Ryan as kind of a bully?
13 SF: Sometimes yeah, he can be a bully.
14 LB: Okay, what does that mean, what do you mean he can be a
15 bully?
16 SF: If you take his toys away from him.
17 LB: He'll do what?
18 SF: He'll fight back.
19 LB: Physically, in other words he could hit?
20 SF: Yeah he hits, but he doesn't pick things up and hit.
21 LB: Okay, well you've never seen him pick something up and
22 hit another child?
23 SF: No, he doesn't even do that now to his own brother.
24 LB: Okay, um, what do you do about it when he hit's another
25 child.
26 SF: I tell him no, and I tell him to apologize and say he's
27 sorry, and I make him sit in time out or stand in the corner.

1 LB: Okay, were your kids playing with these other kids on
2 Sunday.

3 SF: Yeah, my kids were playing with Pauline's children and
4 playing with John's little girl, and I guess they were
5 playing with Rachel to. My oldest told me that Rachel
6 was playing with them.

7 LB: Had they gone over to um, like near Barry's and Angela's
8 trailer or in their yard to play?

9 SF: No, they were all around our trailer, and in the area of
10 the bathroom and shower.

11 LB: But you could see them?

12 SF: Well pretty much yeah.

13 LB: Was there ever a time when they were playing that you
14 couldn't see all of the kids?

15 SF: Yeah, when we were sitting by, behind the uh, the way we
16 had our trailer set up, we had our trailer here and then
17 camper was set more over, so there were times when we
18 couldn't see.

19 LB: But they've played like that before, they play around the
20 trailer?

21 SF: Yeah, they usually stay right around the camper. Right
22 in that area, or go to Pauline's.

23 LB: Is it possible or did you hear anything about the kids
24 playing around in Barry's van?

25 SF: No, they were not playing in Barry's van.

26 LB: You didn't hear anything about that?

27 SF: No, my children were not playing in Barry's van.

28

1 LB: Okay, how did you know that?
2 SF: Because they hadn't gone over there.
3 LB: But there was a time when you said that you couldn't
4 exactly see them.
5 SF: They did not leave, because we asked Patrick, and he said
6 no, they were not in Barry's van, and they had not gone
7 over there, my oldest one, and also Pauline's kids.
8 LB: Okay.
9 SF: Because we were told the same thing also after, that the
10 kids were playing in Barry's van, and they were not
11 playing in Barry's van.
12 LB: Okay, and that information comes from the children
13 telling you that they did not go over there?
14 SF: Right.
15 LB: Okay, so it, just remind me I know you have already told
16 me this, you said that it was before 5:00 o'clock when
17 Barry came and got Rachel.
18 SF: Yes, it was still daylight.
19 LB: Okay, uh, did you have an opportunity to see any of
20 Barry's or Angela's kids anymore that day?
21 SF: Yeah the oldest boy was riding around, riding on his
22 bike, because my husband fixed his bike right after Barry
23 came and got Rachel.
24 LB: Oh, okay.
25 SF: Because the seat was coming off.
26 LB: Did you see Rachel anymore that day?
27 SF: No I did not, except for in Barry's hands.

1 LB: Okay and when was that?

2 SF: That was after he took her back and he left her in the

3 van.

4 LB: Do you remember about what time that was?

5 SF: (Inaudible), it started turning dusk.

6 LB: And were you cooking at that time?

7 SF: Yeah we had just started cooking.

8 LB: Okay so it was some time just after 5:00 o'clock?

9 SF: Yeah.

10 LB: And you saw what?, You saw Barry's van drive by?

11 SF: Yeah he drove right in front of our trailer going out.

12 LB: So you clearly saw that he was driving?

13 SF: Yes he was driving.

14 LB: And you saw that Rachel was in the van?

15 SF: Yes.

16 LB: Was she in the passenger seat?

17 SF: No she was in the middle, right in the middle, like on a.

18 LB: Like was she sitting down, or?

19 SF: She could of been sitting or standing.

20 LB: You couldn't tell?

21 SF: No, but I know it was her.

22 LB: Was there anybody else in the van?

23 SF: Yeah, Angela was in there, it looked like Angela.

24 LB: There was definitely a woman?

25 SF: Yes there was.

26 LB: And where was that person?

27 SF: She was sitting in the passenger seat.

1 LB: Okay, and at the time what you thought was that it was
2 Angela?
3 SF: Yeah.
4 LB: Are you positive?
5 SF: I, now I couldn't be, I don't know.
6 LB: But at the time you..
7 SF: I didn't second guess it.
8 LB: You were just pretty sure that it was Angela?
9 SF: Yeah.
10 LB: Okay, uh, was there anyone else you could see in the van?
11 SF: No.
12 LB: Now you said that there's windows all around, is it that
13 you didn't notice, or did you actually see that there was
14 no one else in the van?
15 SF: I didn't notice.
16 LB: Okay, that's fair. Did you ever see the van come back?
17 SF: No, if they did they went by the other direction coming
18 back.
19 LB: So there's a way they could come in to their trailer that
20 would not be going right by your camper.
21 SF: Right.
22 LB: You know I'm just noticing here on the statement that you
23 gave to the police you said that Rachel did not have any
24 kind of shirt on. Today you said that she was wearing a
25 tank top. Do you recall which of those it was?, or if
26 you can't recall that's fine.
27 SF: She might not have been, tank top or something, I know
28

1 she was soaking wet, her hair was wet, she was wet.
2 LB: Okay, uh, did you see any of the other kids later besides
3 Johnny?
4 SF: Yeah, the blonde haired one.
5 LB: The girl?
6 SF: Yeah.
7 LB: Did you see Brandie at all?
8 SF: No, no I did not.
9 LB: Stephanie I know, uh, shortly after this happened, you
10 and your family moved from that trailer park.
11 SF: Right.
12 LB: Do you recall how long after this it was that you moved?
13 SF: No.
14 LB: Was it within a day, a week, or a month?
15 SF: It was like a month.
16 LB: Within the month, okay, could it have been less time,
17 could it have been a week?
18 SF: No, it was more than that.
19 LB: Okay, it was more than a week.
20 SF: Yeah.
21 LB: But less than a month for sure?
22 SF: Yeah.
23 LB: And what was it that prompted you to move from the
24 trailer park?
25 SF: We paid, it was two weeks, we paid two weeks of rent.
26 LB: For the month of May you mean?
27 SF: Right because we did not want to be there anymore, just
28

1 the trailer itself and the camper, it was too hot, and we
2 needed something bigger.

3 LB: So did you leave the camper there and just move, or did
4 you take the camper?

5 SF: No we took our trailer, we left the camper.

6 LB: You also had a trailer in that trailer park?

7 SF: Yes we had a travel trailer, a 1960 travel trailer.

8 LB: Okay, and that's what you were living in at that time?

9 SF: Uh-huh.

10 LB: Okay so you left the camper...

11 SF: Right.

12 LB: Which you also owned and just left it without..

13 SF: No we left it because we were selling it to somebody.

14 LB: Oh, okay, and where was it that you moved to?

15 SF: We moved to Cindy Ayala, she lives over on 33rd.

16 LB: Okay that's another trailer park, or?

17 SF: No, that's uh, a lady and her husband, Bobby, who live in
18 a house.

19 LB: Okay so your family was living with their family?

20 SF: Well we were living in our trailer in front of their
21 garage.

22 LB: Okay, was there a time when you moved to Phoenix, or
23 lived in Phoenix?

24 SF: When?

25 LB: Between then and now.

26 SF: No, my sister did.

27 LB: Okay, um, Stephanie, how come it's been so hard for us to
28

1 get in touch with you.

2 SF: Well sometimes, I was with a man that has really, really,
3 really screwed me up. He has tried to get my kids taken
4 away, he's got me cut of DES.

5 LB: Who is this?

6 SF: His name is Dianus (sp) Ross. He's really got me screwed
7 up, he left me and come back, left me with no food, with
8 my kids and finally I decided let my step-mom take
9 temporary custody, except for I would take them also. I
10 know it's not, that way if Child Protective Services came
11 in, hopefully she would be able to take care of them if
12 there was a problem. And he was calling Child Protective
13 Services.

14 LB: Why, reporting what?

15 SF: He told my husband that he needed my boys, that we was
16 trying to take them away.

17 LB: That he, this man needed your boys, for what?

18 SF: I have no idea and he told my sister to, he kept asking
19 my sister to go to a lawyer's with him to try to get my
20 kids taken away.

21 LB: And was there something that you were worried about that
22 if thought if CPS had got involved that they might take
23 them away?

24 SF: No, it's just that I didn't want, my daughter was taken
25 from me, I didn't want my kids, my two boys taken from
26 me.

27 LB: Why was your daughter taken from you?

1 SF: Because of my mom.

2 LB: What did she do?

3 SF: They said my mom was loony, she was not in the right
4 mind, and did not want my having her living there with
5 her but I did not have any place else to go, I was
6 sixteen years old.

7 LB: Um, so is there a specific reason why you haven't showed
8 up to all these dates that you've been subpoenaed to, and
9 these interviews and everything.

10 SF: I was told by Arlene Moore, and this can be confirmed by
11 Mr. Wilbur Ray, I called her the day I got a subpoena, I
12 don't know if it was for, I think it was the March 21st
13 subpoena or it was the April 4th, and it said call now
14 Arlene Moore and it has the number, and I called. Well
15 I got no answer back so I called her back a couple of
16 days later. She called me the next day, the next
17 morning, and my father was awake sitting right next to me
18 when I was talking to her, and she said, Oh I don't think
19 were going to need you for this trial. And she didn't
20 give any reasons why or anything.

21 LB: Okay, how about the subpoena that I had served on you for
22 the deposition at my office.

23 SF: For March 6th?

24 LB: I think it was March 13th, or maybe it was for the 6th,
25 but it was for a deposition at my office. And sort of an
26 older guy named Stan came and served you.

27 SF: No.

28

1 LB: You don't remember that?

2 SF: Not Stan no, I know a guy, I have his number at home in
3 my phone book of a guy that served me a subpoena.

4 LB: Okay, and so what happened.

5 SF: I didn't get served with a March 6th, I know I saw my
6 husband's and that's about it. I didn't get served.

7 LB: Stephanie are you concerned at all that your son Ryan
8 might have in some way hurt Rachel, or had been involved
9 in any of this?

10 SF: No, no, I mean yeah I would be concerned if he did do it,
11 but I don't think he did.

12 LB: So your moving and not showing up for some of these dates
13 and that sort of thing has nothing to do with your
14 concern about that.

15 SF: No it does not, my children are in one spot.

16 LB: Okay, I don't have any other questions right now thanks.

17 DD: (Inaudible), my name is David Darby and I represent
18 Angela Gray. Uh the morning of your husbands Mike's
19 birthday party, what time did he get home, do you recall?

20 SF: He got off at 6:00 and got home at 7:00 something like
21 that.

22 DD: And when he got home at 7:00 were you awake?

23 SF: No I was not.

24 DD: So how did you know that he got home at 7:00?

25 SF: Cause he woke me up.

26 DD: Okay so you were awake when he got there, or actually he
27 got there and woke you up.

1 SF: Yeah he woke me up when he got there.
2 DD: At about 7:00?
3 SF: Yeah, something like that.
4 DD: Okay, and then at point in time what did you guys do, go
5 back to sleep?
6 SF: Yes we did.
7 DD: And then got up about what, 9:00 o'clock?
8 SF: Yes.
9 DD: Okay that was the day that was scheduled for the birthday
10 party right?
11 SF: Right.
12 DD: Okay your going to have friends over, barbecue, things
13 like that right?
14 SF: Yeah.
15 DD: Okay, now, uh, after the uh, I guess after the Sunday and
16 Monday after had Rachel died and had been taken to the
17 hospital and then everyone started scurrying around over
18 at the trailer park investing..., did you ever have a
19 conversation with your husband Mike about your concern
20 that Ryan might be involved or that Ryan might have had
21 something to do with hurting Rachel.
22 SF: No after I was told I went and told my husband.
23 DD: And did you have, and you had a conversation about
24 whether or not Ryan might be involved.
25 SF: No I did not.
26 DD: You didn't?
27 SF: No.

28

03671

1 DD: Okay you just went and told Mike that uh, people were
2 saying that Ryan may have hit Rachel?
3 SF: Right, and he said that was a bunch of crap, and I said
4 the same thing.
5 DD: Okay, alright now I want you to think carefully now back
6 to that conversation and tell me exactly what is was that
7 Mike said to you when you told him that people were
8 accusing Ryan of having something to do with this.
9 SF: He didn't say anything to me.
10 DD: Okay, well just a minute ago, you said that he said that
11 it was a bunch of crap.
12 SF: That's the only thing he said.
13 DD: He said, That's a bunch of crap.
14 SF: Yeah, he said I don't believe it.
15 DD: Okay did he use those specific words?
16 SF: Yes, he said I do not believe it.
17 DD: Okay, but did he say that's a bunch of crap.
18 SF: No, he said, That's a bunch of shit.
19 DD: Okay, and then after that did he say that's a bunch of
20 shit, I don't believe it?
21 SF: Yeah.
22 DD: Because I'm not trying to put words in your mouth, I just
23 want you to tell me what he said.
24 SF: That's a bunch of shit I don't believe Ryan would do
25 something like that.
26 DD: Alright, and then uh, you all moved from the trailer park
27 about two weeks after that then, right?
28

03672

1 SF: Right.

2 DD: Okay, so that would be about the 15th of May after your,
3 well let me ask you this, when was your rent up at the
4 apartment, at the trailer park?

5 SF: On the 15th.

6 DD: So you paid twice a month every two weeks?

7 SF: No we usually paid by the month, but we ended up, because
8 there was so much crap going on in the trailer park,
9 there was so many people fighting, arguing. And we moved
10 because of what happened to Rachel. It got to me, it got
11 to my husband, it got, it just, it was too much.

12 (End of Side A)

13 DD: Alright, just took a brief pause here to turn tape
14 recorders over. Now you indicated that as far as you
15 knew, Rachel had never been inside the camper, is that
16 right?

17 SF: Not before that, not before that day that she went into
18 the camper, no.

19 DD: Now describe this camper for me if you would.

20 SF: It sleeps six.

21 DD: Okay, now was it like a camper that goes into the bed of
22 pickup truck?

23 SF: It goes on a three quarter ton or a one ton.

24 DD: Okay was there a three quarter ton or a one ton
25 underneath it.

26 SF: No there wasn't.

27 DD: Okay so it was off the truck and sitting on the ground.

1 SF: Right.

2 DD: And had those little kind of metal stilt things holding
3 it up.

4 SF: No we had it on pallets.

5 DD: You had it on pallets. Okay and there was enough room
6 for somebody to get underneath there?

7 SF: To get underneath the truck part, it's a cab over camper.
8 It sit's over the cab of a truck.

9 DD: Right, I understand, it's kind of looks like this.

10 SF: Yeah.

11 DD: Okay, so what portion of it that you saw that Rachel was
12 under?

13 SF: I didn't see her under there.

14 DD: Okay, what portion of it were you told that she was
15 under?

16 SF: The front part, the cab over part.

17 DD: The cab over part?

18 SF: Right.

19 DD: Okay so there's probably enough room for her to stand
20 under there.

21 SF: Oh yeah.

22 DD: Okay, so the rest of it was just sitting under the
23 ground, you couldn't get underneath it right?

24 SF: You couldn't get underneath the main part of it no.

25 DD: Okay, and when you were told Rachel was underneath the
26 trailer, underneath the cab over part, where were you
27 when this was told to you?

1 SF: My kids told me that, I was sitting in a chair in front
2 of the trailer.
3 DD: Okay, and did you look over, from where you were sitting
4 were you able to look over and see that where the camper
5 was?
6 SF: Yeah, it was right next to it.
7 DD: Okay, and did you look over there?
8 SF: They didn't tell me until after Rachel had already
9 started throwing up in the toilet and Barry came and got
10 her.
11 DD: Okay, now before you said that Rachel didn't throw up in
12 the toilet she was just having dry heaves.
13 SF: Trying to throw up, dry heaves, no she did not throw up
14 she was trying to throw up.
15 DD: Okay, now did you have any idea of how Rachel knew there
16 was a toilet inside this camper?
17 SF: No.
18 DD: Alright, now I take it that she went in, now the only way
19 to get into this camper is through the back, right?
20 SF: Right.
21 DD: And you keep that door locked?
22 SF: No, the door was wide open.
23 DD: To the camper?
24 SF: Right.
25 DD: Alright, is that how it normally sits with the door wide
26 open?
27 SF: Normally yeah, when were sitting there, not when were not
28

1 there is shut and locked.

2 DD: Who opened, do you know how it got opened that day?

3 SF: Yeah, we opened it, because the kids slept in there.

4 DD: Your kids?

5 SF: Yes.

6 DD: Alright, were there any other kids besides your kids?

7 Ryan and uh, I'm sorry what's your older boys name?

8 SF: Patrick.

9 DD: Ryan and Patrick, did they sleep out there?

10 SF: Yes, and there was Andrew, the baby. And that's where we

11 all slept was in there.

12 DD: That's where all of you slept?

13 SF: Usually yes.

14 DD: Okay, because uh, you didn't sleep inside of the trailer

15 itself?

16 SF: Yeah we slept inside the trailer to, it depended, if we

17 had a whole bunch of kids over all the kids would sleep

18 in the trailer, and my husband and I would sleep in the

19 camper.

20 DD: Okay so you would let your two year old kid sleep outside

21 with the other kids?

22 SF: Yeah with my oldest?

23 DD: Alright, how old is he?

24 SF: Now he's six.

25 DD: Okay, alright did the kids sleep in the trailer that

26 night before the Saturday night.

27 SF: They slept in camper.

1 DD: I'm sorry in the camper, is that why the camper was open?
2 Because the kids slept in there the night before?
3 SF: No.
4 DD: Okay, then why was the trailer open?
5 SF: I don't understand what your saying, (inaudible).
6 DD: Okay, the kids that slept in the camper on Saturday night
7 right?
8 SF: Right.
9 DD: Alright, and you said that you don't open the camper up,
10 or open the door unless their gonna sleep out there
11 right?
12 SF: No.
13 DD: Alright, well then just explain to me how you keep this
14 camper, whether you keep the camper locked, or whether
15 you keep it open.
16 SF: When were not there the camper is locked, when were there
17 the camper is open.
18 DD: Alright, the kids slept in the camper on Saturday night,
19 right?
20 SF: Right.
21 DD: Okay who opened the camper to let them get in there to go
22 to sleep?
23 SF: I did, me and my husband, either one of us would have
24 opened it.
25 DD: Okay do you recall opening the camper on that Saturday
26 night?
27 SF: No my husband did, because he gave my kids, my two oldest
28

1 boys a shower.

2 DD: Okay.

3 SF: And I gave the baby a shower.

4 DD: Okay, and when you uh, finally got up at 9:00 o'clock

5 after Mike came home, were the kids already up?

6 SF: No they weren't.

7 DD: They were still asleep in the camper?

8 SF: Yes they were.

9 DD: Did you go and wake them up?

10 SF: I opened the door, we had donuts ready for them, and I

11 opened the camper door and they woke up.

12 DD: So you went out and said, Okay kids let's go eat some

13 donuts?

14 SF: The baby was awake, yes I did.

15 DD: Okay was the baby out there sleeping with them too?

16 SF: No, not all the time.

17 DD: I'm just talking about that Saturday night.

18 SF: Yes he was.

19 DD: So when you went out there to give the kids some donuts,

20 you had Ryan who was two at the time, right?

21 SF: Right.

22 DD: And you had your oldest son how old was he, he was five

23 then.

24 SF: Uh-huh.

25 DD: And his name was Patrick right?

26 SF: Right.

27 DD: And then there was Andrew.

1 SF: Andrew.

2 DD: And how old was he at the time?

3 SF: A year.

4 DD: So all these three kids, the five year old, the two year
5 old, and the one year old slept in the camper that
6 Saturday night before Mike's birthday party.

7 SF: Right.

8 DD: Okay, that's all I've got.

9 LB: It's 11:00 o'clock, and it's the end of the interview.

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03679

Exhibit 22

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PIMA

STATE OF ARIZONA,

Plaintiff,

vs.

BARRY LEE JONES,

Defendant.

No. CR-45587

VIDEO DEPOSITION OF STEPHANIE FLEMING

24 March 1995

Tucson, Arizona

ORIGINAL

ARIZONA COURT REPORTING
177 North Church, Suite 913
Tucson, Arizona 85701

02235

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 PIMA COUNTY ATTORNEY'S OFFICE
4 BY: MITCHELL S. EISENBERG, ESQ.
5 32 North Stone, Suite 1400
6 Tucson, Arizona 85701-1317

7 FOR THE DEFENDANT:

8 BRUNER & BOWMAN, P.C.
9 BY: LESLIE A. BOWMAN, ESQ.
10 78 West Cushing
11 Tucson, Arizona 85701-2218

12
13
14 BE IT REMEMBERED that pursuant to notice of taking
15 depositions in the above-styled and numbered cause, the
16 video deposition of STEPHANIE FLEMING was taken upon
17 oral examination, at the Superior Court in the City of
18 Tucson, State of Arizona, before PATRICIA CALABRO, a
19 Notary Public in and for the County of Pima, on the 24th
20 day of March, 1995, commencing at the hour of 10:35 a.m.
21 in a certain cause now pending before the Superior Court
22 of Arizona, County of Pima.

02236

I N D E X

EXAMINATION

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BY MS. BOWMAN	4
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BY MS. BOWMAN	40

E X H I B I T S

NO.	DESCRIPTION	PAGE
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(No exhibits marked.)

02237

1 MS. BOWMAN: Today is Friday, March 24th. The
2 time is 10:35 a.m. Videoing this deposition is John
3 Sopko, S-O-P-K-O, from Thermographic Infrared
4 Consultants.

5 We are taking this deposition on the seventh
6 floor of the Superior Courthouse. This is the case of
7 State versus Barry Lee Jones. CR number 45587.

8 We are deposing, today, Stephanie Fleming.
9 This deposition is being taken at the request and on the
10 behalf of Defendant Jones.

11 This is Leslie Bowman, representing Mr. Jones.
12 Also present is Mitch Eisenberg on behalf of the State.

13
14 STEPHANIE FLEMING,
15 called as a witness herein, having been first duly
16 sworn, was examined and testified as follows:

17
18 EXAMINATION

19 BY MS. BOWMAN:

20 Q. Ms. Fleming, could you state your full name
21 for the record, please?

22 A. Stephanie Michelle Fleming.

23 Q. And what is your date of birth?

24 A. 12-11-70.

25 Q. Ms. Fleming, could you please tell us the

02238

1 address where you're currently residing?

2 A. Right at the moment, it's 5513 South Bonney.

3 Q. Is there a telephone there?

4 A. Yes.

5 Q. And what's the phone number?

6 A. 295-3813. But I'm going to be moving back to
7 my dad's.

8 Q. And when is that going to happen?

9 A. Today.

10 Q. Okay. Could you give us that address, also,
11 please?

12 A. 3714 East 22nd Street.

13 Q. And is there a telephone there?

14 A. Yes.

15 Q. What is the phone number?

16 A. 326-3892.

17 Q. Ms. Fleming, I notice that you are in an
18 orange jumpsuit here today. Could you tell us why?

19 A. Because I did not show up for the court date
20 on the 21st to testify for -- on behalf of the State.

21 Q. Okay. Were you subpoenaed to that date?

22 A. No, I wasn't. I was subpoenaed for the 21st,
23 yes, but I was told by Arlene Moore that I did not have
24 to go, that I wasn't going to be used in the case.

25 Q. Ms. Fleming, are you currently employed?

02239

1 A. No, not really.

2 Q. In other words, you're not earning any income
3 at this time?

4 A. I earn income through my father to pay off the
5 bill that I owe him, and I take care of my grandma.

6 Q. Okay. Do you have any children?

7 A. Yes, I do.

8 Q. Could you tell me their names and their ages,
9 please?

10 A. Patrick Michael Thorne, he's six; Ryan Neil
11 Thorne, and he's three. And then Andrew Dale Fleming,
12 and he's going to be two.

13 Q. Could you tell me the approximate weights of
14 each of your children?

15 A. Um --

16 Q. It's just an estimate, it doesn't have to be
17 exact.

18 A. My oldest is over 40 pounds; my middle one is
19 about 30, 35; and the baby is about 25, 30.

20 Q. Okay. Ms. Fleming, do you know or are you
21 acquainted with Barry Jones?

22 A. I don't really know him that well, no.

23 Q. Have you ever met him?

24 A. Yes.

25 Q. Have you ever met Angela Gray?

02240

1 A. Yes.

2 Q. Could you tell us the circumstances under
3 which you met those two individuals?

4 A. It is when I went to look -- I seen a puppy
5 that they had and I went to ask them if they had another
6 one.

7 Q. How is it that you came to see this puppy that
8 they had?

9 A. It was running outside the yard, and one of
10 the kids over there brought it back inside.

11 Q. Okay. Where were you residing at the time?

12 A. At 4 -- the address over there, Desert Vista.

13 Q. And on what street is that?

14 A. It's on Benson Highway.

15 Q. Is that the same place where Mr. Jones and
16 Ms. Gray resided?

17 A. Right.

18 Q. About how long ago was it that you first met
19 these two?

20 A. From today's date, it's been a year, almost.

21 Q. Okay, so you met them sometime around the end
22 of March in 1994?

23 A. Right. End of March, beginning of February,
24 something like that -- I mean April.

25 Q. Okay. And how many times would you say you

02241

1 had contact with them?

2 A. Like seven or eight. I seen Barry before
3 that. I had met Barry before that through my boyfriend
4 at the time, which was Julian Duran.

5 Q. How long before that do you think you had met
6 Barry?

7 A. About two to three months before that.
8 December. It was sometime in December.

9 Q. At that time, were you living at Desert Vista
10 on Benson Highway?

11 A. December 20th, I moved into Desert Vista, of
12 1993.

13 Q. And Mr. Jones also resided there at the time?

14 A. Yes, I believe so.

15 Q. Do you know who he lived with?

16 A. No, I didn't -- I don't know that.

17 Q. Do you know if he lived with Angela Gray?

18 A. No.

19 Q. No, you don't know, or no, he didn't live with
20 her?

21 A. I don't know if he did or not.

22 Q. Did you ever have an opportunity to meet any
23 of the Jones or Gray children?

24 A. No, not -- the only one I met was Brandi, and
25 that was in December, late December.

02242

1 Q. Do you know whose child she is?

2 A. From what I understand, she's Barry's child.

3 Q. And you did not meet any of the other
4 children?

5 A. No, I didn't. I didn't even know there was
6 any other children there.

7 Q. Until when? When did you become aware there
8 were other children there?

9 A. In April.

10 Q. Okay. Did you have contact with Angela's
11 children after April?

12 A. Yeah.

13 Q. Do you know what their names are?

14 A. No, just Rachel.

15 Q. And who is Rachel?

16 A. Rachel is the youngest.

17 Q. Do you know about how old she is?

18 A. Four. And she -- when we asked her how old
19 she was, she said four.

20 Q. Okay. What was the first time that you had
21 contact with Rachel?

22 A. The day I went over to look at the puppies.

23 Q. And you think that that was sometime around
24 the end of March or beginning of April?

25 A. Yeah.

02243

1 Q. How did Rachel appear to you at that time?

2 A. She appeared fine to me.

3 Q. Was she a friendly little girl?

4 A. Yes.

5 Q. Talkative?

6 A. Yes.

7 Q. Did you notice anything unusual about her
8 physically?

9 A. No. She was -- like we said the other day,
10 she was a little small for her age.

11 Q. When you say "a little small," is she smaller
12 than your three year old?

13 A. Oh, yeah.

14 Q. Can you estimate -- say, if your three year
15 old is 35 or 40 pounds, could you estimate how much you
16 think Rachel might have weighed?

17 A. No.

18 Q. But she was definitely smaller?

19 A. She's shorter. She was -- I -- she was a lot
20 shorter than my three year old.

21 Q. Is she also built more slightly? Is she
22 thinner?

23 A. She's a lot thinner, yeah.

24 Q. How many times, between that time when you
25 first met her and the weekend of May 1st, did you have

02244

1 contact with Rachel?

2 A. About seven or eight, maybe.

3 Q. Okay. And was your contact basically around
4 the trailer park?

5 A. Yeah.

6 Q. On those occasions, you had an opportunity to
7 talk to her?

8 A. Yes.

9 Q. And you were close enough to her then to see
10 her well?

11 A. Right.

12 Q. Did you ever notice any kind of bruises or
13 scrapes or cuts on her body that you thought were
14 unusual?

15 A. No. She -- she had a scrape on her knee, like
16 in the beginning of April, and that was because she had
17 fell over the puppy.

18 Q. Did you see her fall?

19 A. Yes, everybody seen her fall. I mean,
20 everybody saw her fall. And she -- she didn't really
21 cry for it or anything, so --

22 Q. When you say "everybody," do you recall who
23 else was there?

24 A. Was me and Brandi and Barry was standing
25 outside. Kenny Bear was there, and Angela was there.

02245

1 Q. And you said she didn't fall -- excuse me, she
2 didn't cry when she fell?

3 A. Not really. She whimpered, but that's about
4 it.

5 Q. Did either Barry or Angela attend to her when
6 she fell?

7 A. Yeah, they looked at her knee, and she was
8 okay.

9 Q. You never noticed any kind of bruises on her
10 face?

11 A. No, I did not.

12 Q. Did you ever see her with black eyes?

13 A. No, I never did.

14 Q. Did you ever see any kind of bruises on her
15 hands?

16 A. No.

17 Q. Ms. Fleming, I want to take you to the day of
18 Saturday, I believe it was April 30th. Do you recall
19 that weekend?

20 A. Yes.

21 Q. Do you recall what you were doing on Saturday?

22 A. On Saturday?

23 Q. Right.

24 A. Just sitting around.

25 Q. Did you have an opportunity to see Rachel that

02246

1 day?

2 A. Yeah.

3 Q. And how did she appear to you on that day?

4 A. She was fine.

5 Q. No scrapes, bruises?

6 A. No. She was riding her bicycle outside her --
7 the trailer. She wasn't allowed to go anywhere else,
8 she was allowed to stay right there.

9 Q. Did you see anybody supervising her?

10 A. Yeah, Brandi was.

11 Q. Do you know how old Brandi is?

12 A. No.

13 Q. When was the next time that you came into
14 contact with Rachel after that Saturday?

15 A. It was the Sunday of my husband's birthday
16 party.

17 Q. And that would be May 1st?

18 A. Uh-huh.

19 Q. Can you start at the beginning of the day and
20 just tell me how that day went?

21 A. My husband came home, we went to sleep for a
22 little while. He woke me up.

23 Q. At about what time?

24 A. When he got home?

25 Q. Do you remember?

02247

1 A. He usually got home at -- something like 6:00.
2 He got off at 6:00, so he would have been home by 6:30
3 or 7:00.

4 Q. Is that usually what happened or do you
5 specifically remember that day?

6 A. No, I pretty much remember. I don't remember
7 what time he came home in the morning. It was early.

8 Q. Okay.

9 A. He had gotten off -- as soon as he got off
10 work he came right home that morning, he didn't have to
11 work over.

12 Q. And so you said he woke you up and then you
13 both went back to sleep?

14 A. Yeah.

15 Q. And when did you awaken again?

16 A. It was pretty close to 9:00, 9:30.

17 Q. How do you know what time it was?

18 A. Because I looked at my watch, and the kids
19 needed to be fed breakfast.

20 Q. What is your husband's name?

21 A. Michael Fleming.

22 Q. And he woke up about the same time as you?

23 A. Yes.

24 Q. And were your children awake at that time?

25 A. No.

02248

1 Q. Did you wake them up?

2 A. Yes.

3 Q. So you woke them up sometime around 9:00 or
4 9:30?

5 A. Yes.

6 Q. And what was the next thing that happened?

7 A. We just sat outside. Oh, we went to Quik-Mart
8 and got some doughnuts for the kids, for the boys.

9 Q. Okay. And then, when you came back?

10 A. We just sat outside.

11 Q. Were you pretty much outside all the rest of
12 that day?

13 A. Right.

14 Q. And you said it was the date of your husband's
15 birthday party. Were there other people there?

16 A. Later on, yeah.

17 Q. About what time?

18 A. Around 3:00, 3:30, when people started showing
19 up. His best friend Chuck was there at 3:00.

20 Q. And other people came at about 3:00 or 3:30?

21 A. About 3:30, something like that.

22 Q. Do you recall who it was that came?

23 A. It was May, Dawn Kopp, Julian Duran, my
24 sister, which is Erika Thorne, and her friend Bill, I
25 don't know his last name. And that was about it.

02249

1 Q. And when these people came over for the party,
2 what did all of you do?

3 A. We just sat around -- stood around, sat
4 around, talked.

5 Q. This was outside?

6 A. Yes.

7 Q. Could you tell us approximately how far from
8 where you lived is the Jones/Gray trailer?

9 A. I -- I couldn't tell you, I don't know. I
10 really don't know. You could see it from where we lived
11 at.

12 Q. Okay. So you could see their trailer --

13 A. Yes.

14 Q. -- from where your trailer was?

15 A. Yeah.

16 Q. Stephanie, was there any drinking of alcoholic
17 beverages going on that day?

18 A. Yes.

19 Q. Did you drink that day?

20 A. Yes, I did.

21 Q. Do you recall what time you took your first
22 drink?

23 A. It was after 3:00 in the afternoon.

24 Q. What was it that you drank?

25 A. Bud Light.

02250

1 Q. Were other people drinking, also?

2 A. Yes.

3 Q. Do you know approximately how much beer was at
4 the party that was consumed?

5 A. Between all of the people that were there
6 drinking, and everybody was drinking all the beer, it
7 was probably about an 18-pack.

8 Q. So all of the names of the people that you
9 mentioned earlier, each one of them drank at least one
10 beer?

11 A. Yeah, except for Chuck, which is my husband's
12 best friend.

13 Q. Was there also food?

14 A. Yes, there was.

15 Q. Can you tell me what that was?

16 A. There was supposed to be steaks, potatoes,
17 corn on the cob because we wrapped them in tin foil and
18 put them in the barbecue pit.

19 Q. And what time was the food cooked?

20 A. It was cooked about 15 after 5:00, a little
21 after 5:00.

22 Q. Can you tell me, during that day, what your
23 contact was with Rachel?

24 A. She was playing outside with the kids. I
25 didn't really pay attention to her being there with the

02251

1 kids.

2 Q. When you say "with the kids," you mean with
3 your kids?

4 A. With all the kids. There was a whole bunch of
5 kids there. A lot of the people that lived there, all
6 their kids were outside playing right around our
7 trailer.

8 Q. Do you recall the names of the other children,
9 aside from your own?

10 A. There was Mama's, John's little girl. I don't
11 remember all the names.

12 Q. Just as many as you can recall would be
13 helpful.

14 A. I don't remember.

15 Q. So you --

16 A. Just Mama's, I remember Mama's.

17 Q. Okay. And you remember that Rachel was there?

18 A. Yeah.

19 Q. Were any of the other Jones or Gray children
20 there?

21 A. I think -- I think Brandi was there. I
22 know -- yeah, there was. The oldest boy was there,
23 riding around on his bicycle.

24 Q. Do you know his name?

25 A. No.

02252

1 Q. Okay.

2 A. I don't know. He told me one time and I just
3 never paid attention.

4 Q. Okay.

5 A. I forgot.

6 Q. And so the oldest boy was there. Was Angela's
7 other daughter there?

8 A. Yeah.

9 Q. Do you know her name?

10 A. No. As she was playing with Mama's and
11 another little girl that lives in the trailer part.

12 Q. Were the children all within your view the
13 entire time they were playing?

14 A. Almost all the time, yes, they were.

15 Q. Okay. When you say "almost," were there any
16 times when you did not see all these children playing
17 together?

18 A. Oh, yeah. When they were playing underneath
19 the camper, underneath the overhang on the camper.

20 Q. How did you know that they were under there?

21 A. Because Patrick came and told me that they
22 were under there and they were going to get into stuff.

23 Q. Okay. How did Rachel appear to you when she
24 was out there playing?

25 A. She was fine. She seemed to be fine to me.

02253

1 Q. Did you notice any bruises, cuts, scrapes,
2 anything unusual?

3 A. No.

4 Q. At some point, was there something unusual
5 that occurred with Rachel?

6 A. Yeah, when she went to go into my bathroom.

7 Q. And how did that happen?

8 A. Well, she walked right into the camper and had
9 her hand over her mouth and was trying to open the
10 bathroom door.

11 Q. Did you see her walk into the trailer?

12 A. Yeah. We seen her walk in, but we -- most of
13 the kids, if they had to go to bathroom bad enough they
14 would go in.

15 Q. Had she ever been in your trailer before?

16 A. No, she had not.

17 Q. When you saw her walk into the -- excuse me --
18 the camper, did you follow her?

19 A. No. At first, no, until I seen her with her
20 hand over her mouth. And then I went in and asked her,
21 you know, was something wrong and she said, "No." You
22 know, she just kept shaking her head, there was nothing
23 wrong.

24 Q. Did she eventually go into the bathroom?

25 A. Yes, she did.

02254

1 Q. And were you with her?

2 A. Yes.

3 Q. What did she do?

4 A. She just dry heaved. She didn't throw up any
5 fluid at all.

6 Q. How did she appear to you at this time?

7 A. Grayish, greenish color. She's sick.

8 Q. She looked sick?

9 A. Very, very sick.

10 Q. And what did you do?

11 A. I picked her -- I asked her if she was going
12 to be okay, and she shook her head and then she said
13 yeah. And I picked her up and I ran outside and Dawn
14 was calling Barry to come and get Rachel because she was
15 sick.

16 Q. Dawn called Barry?

17 A. Yes, she yelled Barry's name and called Barry.
18 "Barry, come and get your daughter."

19 Q. Did you hear Dawn?

20 A. Yes, I did.

21 Q. And what did Barry do?

22 A. He came running. And I had Rachel in my arms.
23 And he asked her if she was okay, and he did seem
24 concerned. And she said yeah, and he picked her up.

25 Q. When you picked her up, obviously, you're in

02255

1 very close proximity by then, she's in your arms?

2 A. Yeah.

3 Q. Did you notice anything, bruises, cuts,
4 scrapes, black eyes, anything?

5 A. No.

6 Q. Did she seem to be in any kind of pain as you
7 held her?

8 A. No.

9 Q. She didn't complain about any kind of pain?

10 A. No.

11 Q. Do you remember what she was wearing?

12 A. Not now, not really. I think she was wearing
13 a pair of shorts. And she was either not wearing a
14 shirt or she was wearing a shirt, I'm not sure, but I
15 know she was soaking wet. Her hair was wet, her clothes
16 were wet.

17 Q. Do you recall if she had anything on her feet,
18 any shoes?

19 A. She had socks on her feet, I know that much,
20 and shoes, but I don't remember if it was sandals or
21 tennis shoes. But her socks were wet.

22 Q. Did you know why she was wet?

23 A. No.

24 Q. Did you ever ask her?

25 A. No. I was too concerned about her being sick.

02256

1 I didn't really pay attention.

2 Q. Did she go willingly to Barry Jones?

3 A. Yes, she did.

4 Q. And how did he take her?

5 A. He just, you know, asked her if she was going
6 to be okay and she shook her head and said yeah.

7 Q. Okay. And he took her into his arms?

8 A. Yes. And he checked her forehead to see if
9 she had a fever, and then turned around and started
10 running towards the van.

11 Q. Towards the van?

12 A. Uh-huh.

13 Q. Did you see him actually get in the van?

14 A. No. I didn't see him actually get in the van,
15 no.

16 Q. Was there another time later that day when you
17 saw Rachel?

18 A. Not after Barry had -- well, she was in the --
19 in the van with Barry and another person.

20 Q. Okay. Let me back up a minute. Do you recall
21 what time it was that Rachel walked into your trailer?

22 A. That was about 5:00.

23 Q. And how do you know that?

24 A. Because we were supposed to start cooking our
25 bar -- our barbecue was supposed to start about 5:00.

02257

1 Q. So it happened right about the time that you
2 were planning to start cooking food?

3 A. Right.

4 Q. Now you said that you saw her later in the van
5 with Barry. Do you recall about what time that was?

6 A. That was right after.

7 Q. Okay. So sometime very shortly after 5:00?

8 A. Yeah, because we started cooking at 5:15.

9 Q. And how do you recognize Barry's van?

10 A. It's canary yellow.

11 Q. Have you seen it before?

12 A. Yeah.

13 Q. Where have you seen it?

14 A. In front of his trailer.

15 Q. Okay. You're certain that you saw Barry
16 driving the van?

17 A. Yes, I am.

18 Q. And did he drive right by near where your
19 camper was?

20 A. Yes.

21 Q. Or was it a distance away?

22 A. No, he drove right by where our camper is.

23 Q. You say there was another person in the van?

24 A. Yes.

25 Q. Was that person in the passenger seat?

02258

1 A. Yes.

2 Q. And do you know who that was?

3 A. It looked like Angela to me.

4 Q. Do you think you got a good look?

5 A. I -- no, I didn't.

6 Q. So was the van traveling -- do you know how
7 fast the van was traveling at that time?

8 A. He was going pretty fast.

9 Q. Is it paved or is it dirt?

10 A. It's dirt. And it's not as potholey as it is
11 now. Then it wasn't as bad.

12 Q. And do you recall where in the van Rachel was?

13 A. She was in the middle.

14 Q. In other words, in between the woman in the
15 passenger seat and Barry, who was driving?

16 A. Yes.

17 Q. Could you tell if she was seated or standing?

18 A. You couldn't tell. It looked like she was
19 standing or looked like she was sitting on, like, a
20 console.

21 Q. But she was not on the lap of the woman in the
22 passenger seat?

23 A. No.

24 Q. Could you tell if there was anyone else in the
25 van?

02259

1 A. No.

2 Q. Was there any time later -- did you see the
3 van return?

4 A. No, I didn't see them return, no.

5 Q. Did you ever have any other occasion to see
6 Rachel?

7 A. No.

8 Q. That was the last time, when you saw her in
9 the van with these two people?

10 A. I think so. That was pretty much -- now, he
11 left, the van left again, and it was turning dusk, you
12 know, it started to turn dark.

13 Q. In other words, later that evening the van
14 left again?

15 A. Yes.

16 Q. Did you see who was in it then?

17 A. No. I know it looked like him driving.

18 Q. Did you see anyone else in there?

19 A. No.

20 Q. Stephanie, was there a time when someone came
21 and told you that --

22 MR. EISENBERG: I'll object to hearsay.

23 BY MS. BOWMAN:

24 Q. That your son, Ryan, had struck Rachel?

25 A. The next day.

02260

1 Q. Who was it that told you?

2 A. Brandi.

3 Q. And what did she tell you?

4 A. She said that -- first, she said that my --
5 my -- one of my boys, the meanest one, had hit Rachel in
6 the stomach with a metal piece off of a car.

7 And we asked her how she knew, and she said
8 because she'd been told that. Then a couple days later
9 she said that because she saw this happen.

10 Q. When she says "the meanest one," did you know
11 who she was referring to?

12 A. Usually Ryan.

13 Q. And why is that?

14 A. Because if someone -- if a kid or somebody
15 took a toy away from him, he'd get you back, but not by
16 picking something up and hitting anybody with it.

17 Q. Has Ryan ever been described by you as a
18 bully?

19 A. Described by me? No.

20 Q. Have you ever heard him described like that?

21 MR. EISENBERG: I'm going to object to the
22 hearsay.

23 THE WITNESS: Yeah, by them. That's about it.

24 BY MS. BOWMAN:

25 Q. Do you consider him to be an aggressive child?

02261

1 A. No. Only if somebody takes something away
2 from him.

3 Q. Then he will handle that physically as opposed
4 to, like, telling or crying or --

5 A. Oh, now he comes and tells and everything,
6 but, you know, back then, no, he'd wait and he'd wait
7 his turn and then he'd get you back. And it's usually
8 by taking a toy away or you know, something like that.
9 Or he would pour water on somebody that has mud in it.
10 He's done that to his brother before.

11 Q. When you heard that Ryan may have hit Rachel,
12 were you concerned?

13 A. Yeah, I went to my husband about it.

14 Q. How long after this weekend of May 1st did you
15 continue to live on the Benson Highway address?

16 A. Two weeks.

17 Q. And what happened then?

18 A. Then we moved to my foster mother, Cindy
19 Ayala's, right in front of her garage.

20 Q. Was there a particular reason why you decided
21 to move?

22 A. Well, for one thing, I was getting sick and
23 tired of hearing it from everybody over there about me
24 having to testify for -- you know, against Angela and
25 Barry. I don't know these people very well so, you

02262

1 know, what I saw is what I saw.

2 And also, too, is just I was tired of living
3 like that, in that place. We didn't really go to
4 anything better, but it was also too hot to stay in the
5 camper and the trailer where we were at, because we
6 didn't have any air conditioning.

7 MS. BOWMAN: I have no further questions.

8

9 EXAMINATION

10 BY MR. EISENBERG:

11 Q. Ms. Fleming, you and your husband got up about
12 9:00 a.m. on May the 1st and went right outside?

13 A. Yes.

14 Q. Is it fair to say that other than when you
15 went into the camper to wake your kids up you were
16 outside the rest of the day?

17 A. Yes.

18 Q. When did you start drinking that day?

19 A. We didn't start drinking until about 3:00.

20 Q. That was when Chuck got to your trailer?

21 A. I think he got there about that time, or a
22 little bit before that.

23 Q. Okay. And you sat outside and had a party
24 because it was your husband's birthday?

25 A. Right.

02263

1 Q. And I guess it's your estranged husband? You
2 guys don't live together at this point?

3 A. No, we don't live together anymore.

4 Q. You were drinking Bud Light?

5 A. Right.

6 Q. And sitting outside, watching what was going
7 on and talking to people?

8 A. Yeah.

9 Q. Were you able to see all of the kids pretty
10 much all day that were out there?

11 A. Pretty much, yeah.

12 Q. And they were a bunch of kids playing
13 together?

14 A. Yeah, because my friend, Dawn, and -- who was
15 seeing Julian Duran at the time, all her kids were there
16 too, had her kids there, all five kids.

17 Q. So there were a whole bunch of kids?

18 A. There were a bunch of kids.

19 Q. And you don't recall at this point who all was
20 there and who wasn't, but it's fair to say there were a
21 bunch of kids?

22 A. Yeah.

23 Q. Did you see Rachel Gray from time to time
24 throughout the day?

25 A. Couple times we seen her.

02264

1 Q. Coming and going or just happened to be where
2 you were working?

3 A. No, she was just playing out there with her
4 bike out there. John was fixing his stereo in his car,
5 and John lived in apartment 10 -- or apartment 12.

6 Q. Okay. And so John was out there fixing his
7 car stereo, and you saw Rachel out there riding her
8 bike?

9 A. All the kids were around him.

10 Q. And about what time was that?

11 A. That was at 3:00.

12 Q. All right. When you're sitting out -- well, I
13 guess you have -- or at the time you had a trailer and
14 you also had a separate camper, right?

15 A. Right.

16 Q. When you were sitting out for your husband's
17 birthday party, was that by your trailer or your camper?

18 A. You sit by both of them.

19 Q. Okay. They're kind of right there together?

20 A. Yeah.

21 Q. And do you have a clear shot of the trailer
22 that Barry Jones and Angela Gray lived in?

23 A. Where I was sitting, yeah. But I moved my
24 chair.

25 Q. Okay. When did you move your chair?

02265

1 A. When the sun started getting too hot.

2 Q. And where did you move it to?

3 A. To the shade, which is by the trailer.

4 Q. And when you moved it into the shade, were you
5 still able to see the Barry Jones/Angela Gray trailer?

6 A. Not from there, no.

7 Q. About what time was it that you moved your
8 chair?

9 A. About 2:30, because I had to keep getting up
10 and checking to see if they were awake.

11 Q. Who was awake?

12 A. Barry and Angela.

13 Q. And why did you need to check on that?

14 A. Because of the -- Angela had asked me if I
15 would baby-sit. She was going to find out if it was
16 okay with Barry.

17 Q. Did you ever talk to Angela about that?

18 A. Yeah, at 3:00.

19 Q. Did she want you to baby-sit?

20 A. No, she said no.

21 Q. How come?

22 A. She just said no. I didn't ask her why.

23 Q. You -- you've seen the yellow van that you
24 talked about a little bit ago in the past?

25 A. I'd only seen it a few times before that.

02266

1 Q. And it was parked outside of the Jones/Gray
2 trailer?

3 A. Yes.

4 Q. Had you ever seen your kids play in that van?

5 A. No.

6 Q. To your knowledge, were they playing in that
7 van on May the 1st of 1994?

8 A. No, they were not, because Barry kept that van
9 locked.

10 Q. How do you know that?

11 A. Because I -- a few days before that when we
12 went over there, they were talking about it, keeping the
13 van locked, because he had some of his -- his -- his air
14 compressor was in it and he didn't want none of the kids
15 messing with it or anybody else taking it.

16 Q. At some time, Rachel walked into your camper?

17 A. Right.

18 Q. And you saw her walk into the camper?

19 A. Uh-huh.

20 Q. That was about 5:00, you said?

21 A. Uh-huh.

22 Q. Did you get up and follow her in?

23 A. Not right away, no.

24 Q. What made you get up to go into the camper?

25 A. Because she had her hand over her mouth trying

02267

1 to get sick.

2 Q. Had you seen her before she had her hand over
3 her mouth looking like she was trying to get sick?

4 A. No. Not the color she was, no.

5 Q. All right. What color was she?

6 A. She was like a greenish-gray color.

7 Q. And did that concern you?

8 A. Yes, it did.

9 Q. You said she tried to get sick and she had
10 some dry heaves, but she did not actually vomit?

11 A. She did not vomit.

12 Q. Do you recall how many times she attempted to
13 vomit?

14 A. No.

15 Q. A couple of time?

16 A. A few times.

17 Q. And did her face -- was her face this
18 grayish-greenish color or more than that?

19 A. Her whole body.

20 Q. Did you touch her?

21 A. Yeah.

22 Q. You picked her up, right?

23 A. I picked her up.

24 Q. How did she feel to you when you picked her
25 up?

02268

1 A. She was cold.

2 Q. And wet?

3 A. Yes.

4 Q. Did she talk to you at all?

5 A. When I asked her if she was all right, she
6 shook her head -- shook her head and then said yes.

7 Q. Did she carry on any other conversations with
8 you?

9 A. No.

10 Q. Was she pretty quiet other than saying yes?

11 A. Yeah, she was pretty quiet.

12 Q. When you saw Rachel, the color of her skin and
13 saw her trying to throw up, I think you told us you were
14 pretty concerned?

15 A. Yeah.

16 Q. And in fact, you wanted somebody to go tell
17 Barry to take her to the hospital?

18 A. I didn't want somebody to go tell Barry, I was
19 going to go to Barry with Rachel and tell him to take
20 her to the hospital, and that's why I picked her up.

21 Q. Because of the way she looked and the fact
22 that she was trying to throw up?

23 A. Yeah.

24 Q. And this all happened about 3:00 -- or excuse
25 me, I'm sorry, about 5:00?

02269

1 A. About 5:00.

2 Q. Okay. Barry comes over and takes Rachel from
3 you?

4 A. No, I handed her -- I handed Rachel to him.

5 Q. But he came to where you were or kind of met
6 you?

7 A. Yeah.

8 Q. All right. And took Rachel from you, right?

9 A. I handed him Rachel.

10 Q. Okay. And then he carried Rachel?

11 A. Right.

12 Q. Did you see him carry her to the van?

13 A. No, he carried her straight down to the
14 trailer, and I did not pay attention after that.

15 Q. Okay. You at least paid enough attention that
16 you saw the van leave?

17 A. Yeah.

18 Q. Right?

19 And you've told us that you started to cook
20 about 5:15?

21 A. Yes.

22 Q. So did the van leave before or after you
23 started to cook?

24 A. It was before.

25 Q. All right. So somewhere between 5:00 and

02270

1 5:15?

2 A. Something like that, yeah.

3 Q. Because at 5:00, what happens in your camper
4 with Rachel happens, and then at 5:15 you start cooking?

5 A. Yeah.

6 Q. In between, you give Rachel to Barry and he
7 takes off in the van?

8 A. I think so.

9 Q. Okay. When he drove away in the van, you see
10 Barry Jones?

11 A. Right.

12 Q. You see Rachel Gray in the middle?

13 A. Right.

14 Q. And you see a woman passenger seat?

15 A. That's right.

16 Q. And fair to say that you really don't know who
17 the woman was in the passenger seat?

18 A. That's very fair to say.

19 Q. You assumed that it was Angela because it was
20 a woman?

21 A. It looked like Angela to me.

22 Q. You never saw the van return?

23 A. Well, when we looked over, it was starting to
24 turn dark and the van was sitting -- it was parked in
25 front of Barry's house.

02271

1 Q. Okay. But you didn't actually see them drive
2 back in?

3 A. No, there's two entrances to the trailer park.

4 Q. Okay. So you see them leave somewhere between
5 5:00 and 5:15, then it's starting to get dark and you
6 see the van again?

7 A. Yes.

8 Q. And do you recall about what time it was? Do
9 you have any idea?

10 A. No.

11 Q. And then, while it's continuing to get dark,
12 the van leaves again?

13 A. The van only left twice that I know of.

14 Q. Right. And maybe I didn't make myself clear,
15 but somewhere between 5:00 and 5:15, the van leaves with
16 Barry Jones, Rachel Gray and a woman that you thought
17 was Angela?

18 A. Right.

19 Q. You don't see the van come back, but when you
20 look over at dusk, the van's there at the Jones/Gray
21 trailer?

22 A. It was there, yeah.

23 Q. Okay. And then you saw it leave a second time
24 around dusk?

25 A. It was a little after that because we were

02272

1 sitting -- just sitting down to eat.

2 Q. Okay. And you don't recall what time it was,
3 but it was -- again, it was starting to get dark?

4 A. Right.

5 Q. Still light enough that you were able to see
6 the van?

7 A. Oh, yeah, you could see the van in the dark,
8 too.

9 Q. Okay, and light enough that you could see
10 inside of the van?

11 A. No.

12 Q. Well, you said you saw someone driving the van
13 the second time?

14 A. Somebody was driving the van. You could tell
15 somebody was driving it, but I don't know who.

16 Q. All right. You told us a little bit ago you
17 thought it was Barry Jones and it looked like it could
18 have been Barry Jones?

19 A. It probably -- it was a little person, a
20 small --

21 Q. Male or female?

22 A. I don't know.

23 Q. Barry Jones is kind of a small person?

24 A. Yeah.

25 Q. So you assumed it was Barry Jones because it

02273

1 was a small person and it was his van?

2 A. Yeah.

3 Q. Had you ever seen anybody else driving his
4 van?

5 A. No.

6 Q. And then, after the van left the second time,
7 did you ever see it return again?

8 A. No. After that, no, I did not.

9 MR. EISENBERG: Thank you, ma'am. That's all
10 I have.

11

12 EXAMINATION

13 BY MS. BOWMAN:

14 Q. I just have a couple of questions. You said
15 that you went over to the Jones/Gray trailer about 3:00?

16 A. Yes, I did.

17 Q. And that was to check whether you would
18 baby-sit that night for the children?

19 A. That's right.

20 Q. Could you tell me who was there when you
21 arrived?

22 A. When I went to the door, Rachel was outside
23 and Angela was inside in a bathrobe and a towel was
24 wrapped around her head.

25 Q. Where was she?

02274

1 A. She was sitting on the couch, which was, when
2 you looked in the door, it was against the back wall.

3 Q. Did you actually walk in or did you speak with
4 her from the door?

5 A. I just talked to her from the door.

6 Q. Could you see if anyone else was in there with
7 her?

8 A. No.

9 Q. But she was definitely sitting on the couch?

10 A. She was sitting on the couch. And yes, there
11 was somebody else. Brandi was inside.

12 Q. Okay. Did you talk to Angela?

13 A. I just asked her if she wanted me to baby-sit,
14 and that was it.

15 Q. Going back to when you saw the van leave the
16 first time, you saw, for sure, that Barry was driving?

17 A. Yes, I did.

18 Q. You saw, for sure, that Rachel was in -- in
19 between the two front seats?

20 A. Yes.

21 Q. And you saw, for sure, that there was a woman
22 in the other seat?

23 A. Yes, that was a woman.

24 Q. And you say it looked like Angela?

25 A. Yes, it did.

02275

1 Q. Did you get a pretty clear view?

2 A. Somebody else -- somebody else said it was
3 Angela, but I don't remember who it was, but --

4 Q. Did you, yourself, see her, though?

5 A. No, I didn't -- I thought it was her, but I
6 don't know.

7 Q. Is it that you're not sure it's her because
8 you can't remember, or did you not -- were you not able
9 to identify her at the time?

10 A. I couldn't identify her at the time, I don't
11 think.

12 Q. But in your best recollection and to the best
13 of your observations, you believed it to be Angela?

14 A. Yeah, because that was her daughter.

15 Q. So -- in other words, did you just assume it
16 was her because there was Barry and Rachel there --

17 A. Uh-huh.

18 Q. -- or did you see her face or her hair or
19 anything that made you think it was her?

20 A. No, I just probably assumed because of Rachel,
21 there, and Barry.

22 Q. Okay. Again, I know we've gone over this once
23 before, but during the day, there were many, many
24 children playing around?

25 A. Yes.

02276

1 Q. And is it fair to say that you could not
2 account for the whereabouts of each of those children
3 during the time they were playing? In other words,
4 there may have been periods of time when they were not
5 directly within your view?

6 A. No, they were always in our view. There --
7 maybe once -- because they were playing underneath the
8 camper.

9 Q. Okay. So there wasn't a time when they could
10 have left the area without you noticing?

11 A. No, there was not a time when they could have
12 left, because the only time they left was when they went
13 to Pauline's, which is -- you could see right through
14 the camper on the trailer to Pauline's, and they played
15 in Pauline's yard.

16 Q. Stephanie, do you recall when we interviewed
17 you -- was that yesterday -- Wednesday, that you told us
18 that there may have been times when you couldn't see the
19 children?

20 A. When they were playing underneath the camper.
21 That's the only time that we couldn't see them.

22 Q. And the reason that you know that they were
23 under the camper was because your six year old told you
24 so?

25 A. Yeah, he kept coming and telling us that the

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1 kids were getting underneath the camper and getting into
2 our stuff.

3 Q. And you had not realized that on your own that
4 they had gone under there?

5 A. No.

6 Q. Is that because you didn't see them go under
7 there?

8 A. Well, no, you can't see -- where our trailer
9 is and where the camper was sitting, you couldn't see on
10 the other side them going underneath.

11 Q. So there was at least one time when you
12 couldn't see the kids?

13 A. Yeah, when they were underneath the camper.

14 Q. Okay.

15 MS. BOWMAN: I have no further questions.

16 (The record closed at 11:19 a.m.)

17 (Signature of the witness waived.)
18
19
20
21
22
23
24
25

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STATE OF ARIZONA)
) ss.
COUNTY OF PIMA)

BE IT KNOWN that the foregoing deposition was taken before me, PATRICIA CALABRO, a Notary Public in and for the County of Pima, State of Arizona; that the witness before testifying was duly sworn by me to testify to the whole truth; that the questions propounded to the witness and the answers of the witness thereto were taken down by me in shorthand and thereafter reduced to print under my direction; that the foregoing pages are a true and correct transcript of all proceedings had upon taking of said deposition, all done to the best of my skill and ability.

I DO FURTHER CERTIFY that I am not a relative or attorney of either party, or otherwise interested in the events of this action. (

on. Patricia Calabro
PATRICIA CALABRO, CSR, RPR
CSR No. 7906 (CA)

My Commission Expires:

August 29, 1998

Exhibit 23

THIS WILL BE A TAPED STATEMENT AS GIVEN TO DET. RANKIN ON,
REFERENCE CASE 940502025. I'M AT [REDACTED] AT
[REDACTED] AND I'M SPEAKING TO JULIAN DURAN.

LEGEND: Q. DET. RANKIN A. JULIAN DURAN A1. DAWN KOPP

Q. I'll put this in front a you, so it can pick you up.
A. Ok.

Q. Ok, Mr. Duran, um, we've spoken briefly about why I'm here
and I explained to you that I'm here in reference to the
investigation of, uh, Rachel Gray, involving that four year
old little girl. On the day of Monday the 2nd, um, there
were some detectives here to talk to you. First of all, so
I can make sure that, uh, who I'm speaking to, your date of
birth is [REDACTED]

A. Yes.

Q. Ok and you don't have a phone here.
A. I don't.

Q. Ok, are you employed?
A. Yes.

Q. Where at?
A. [REDACTED]

Q. And where's that at?
A. I don't know the exact address but it's over on Milburn.

Q. [REDACTED]?
A. Yeah.

Q. -I So ok and also present in the room is, uh, what is your
name, ma'am?
A. Dawn Kopp.

Q. Dawn Kopp. Oh I got your name, uh, that's right, that, I
was gonna go lookin' for you. Ok. And I'll be speaking to
Dawn in a little while. Um, you were speaking to one of the
county, up at the County Attorney's office to one of the...
A. Dan and Kandice.

Q. ...legal assistants...
A. Yeah.

Q. ...up there?
A. Yeah.

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STATEMENT OF JULIAN DURAN--CASE #940502025

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- Q. Ok. Kandice, that's right. Ok, I'll talk to you in a little bit. (sound of beeper) Sorry about that. Now when the detective came here she talked to you briefly about what had happened that day. Could you tell me all over, starting on, um, I believe it was Sunday that you saw something?
- A. Yeah, it was Sunday about 5:00 o'clock, we were having a barbecue at a friend's house in the back and I had come out of my apartment and I saw Barry walking around, he was like he was looking for something.
- Q. Do you know him from before?
- A. Yes, I've known Barry since I've been living here.
- Q. How long is that?
- A. Off and on for about three years, almost...
- Q. Three years.
- A. ...four.
- Q. Ok.
- A. But we usually just passing know each other and talk a little bit but we usually stay to ourselves.
- Q. Uh huh (yes).
- A. But I saw him walkin' around looking for, like he was looking for something, then he saw Rachel under the front part of the camper out there where we were having, gettin' ready to have a barbecue, and he went over and he talked to her and she was like curled up, not in a fetal position but sittin' like in a ball underneath there, and he walked over and he talked to her and then he said he was gonna come back and check on her in a few minutes and he walked away. Well we, I walked back...
- Q. Did you hear what they said?
- A. No, I didn't hear what...
- Q. What he said to her?
- A. No not at all, just that he would be comin' back.
- Q. Ok.
- A. Ok and I had walked up to the back of the camper and sat down and about five minutes later Rachel come walking up and walked into the camper and Stephanie, a person that was there, said that, asked who's kid it was and I said well I don't know who it is, but Barry came and checked on her. Well Stephanie come out a the camper and said, well go get Barry, and I took off running to go get Barry and he was walking back and I waved to him and he come running up and he took her from, took Rachel from Stephanie's arms and

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walked away and that was the last I saw that day.

Q. Now it was around 5:00 in the evening, could...

A. Yes.

Q. ...you tell how or why, did you look, have your watch on or at that time?

A. No I didn't, no.

Q. How could you tell it was around 5:00?

A. Uh, 'cause that's what time we were expecting, uh, Stephanie's sister and a friend of hers to show up and they showed up about 5:00 o'clock.

Q. Ok. So Barry comes to check the little girl and she's in a little ball sittin'...

A. Right.

Q. ...underneath Stephanie's camper?

A. Right.

Q. And then he leaves her there?

A. Yes.

Q. He says I'll be back, or something?

A. Uh huh (yes).

Q. Does he say that to you when he looks up, like I'll...

A. No...

Q. ...be back?

A. ...he didn't say it to me, he said it to her.

Q. To the little girl?

A. Right.

Q. Did you overhear him saying I'll be back?

A. Yeah.

Q. How did he say that?

A. (No response).

Q. I'll be back or whatever?

A. Just well, yeah, just I'll be back to check on her.

Q. How much later was it betw-, by the time that Stephanie called and said go, go get him, or something?

A. It was about five minutes.

Q. Five minutes had passed? So did the little girl get up on

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her own and go into Stephanie's?
A. Yes, she walked in there on her own.

Q. What did she look like to you, the little girl?

A. I really didn't pay attention to her.

Q. Did it look like...

A. I just saw her, that Barry was talkin' to her and I went, just walked away. And, uh, that's when I heard him say that to Rachel, but I really didn't pay attention to what she looked like.

Q. Did, uh, did the little girl, just by her sitting there in a little ball, did it call it to your attention, I mean your attention was called to her sitting there?

A. Well it, uh, he was over there, he walked right over to her and that's what, I didn't see her 'til he walked over to her.

Q. 'Til he walked over.

A. 'Cause the other kids were out playing in, in back and she was off to the side, she wasn't playing.

Q. Did she look up at him when she was talk-, when he was talkin' to her or..?

A. I was, looked over at the other kids, I really wasn't payin' attention to what he was doin' and sayin' to her.

Q. Ok.

Q. Now I'll speak to, uh, Dawn Kopp. I'll move this over. Dawn, could you tell me what you know about, were you around that day on Sunday?

A1. Yeah, I was here.

Q. Ok. First of all, uh, could I get your full name?

A1. Dawn Ann Kopp, K-o-p-p.

Q. And you work for a doctor's office, don't you?

A1. Yeah.

Q. What's your date of birth and your age?

A1. [REDACTED]

Q. [REDACTED]

A1. Uh huh (yes).

Q. And you live with here with, um...

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A1. No, [REDACTED]

Q. [REDACTED]

A1. Uh huh (yes).

Q. Is there a number there?

A1. [REDACTED]. You mean a phone number? [REDACTED].

Q. What, I'm sorry, [REDACTED].

A1. [REDACTED].

Q. And is that an apartment or..?

A1. It's a house.

Q. Ok. And who are you employed by?

A1. Um, Dr. [REDACTED]'s office, which I'm gonna be changing that.

Q. What do you do there?

A1. [REDACTED].

Q. Alrighty. Were you around, um, this area...

A1. Sunday, yeah.

Q. ...here on Sunday?

A1. Yeah, I was right here, too.

Q. Ok, what time was it that you were around here?

A1. I was here all day.

Q. Ok. And do you remember that little girl that we're talking about, Rachel Gray?

A1. Yeah.

Q. Ok what is it that you recall on that day?

A1. She was sittin' in a corner, underneath the sheets in the camper, and I really didn't pay any attention to her, she was off from the other kids, now that I think about it, there were some that were under the front of the camper playin' around too, but she was just sittin' there.

Q. You mean outside of the camper?

A1. Outside of the camper where the top like a...

Q. It's like a camper that you'd,...

A1. ...top bed.

A. ...for a truck.

A1. Comes over, yeah, it goes on a truck and its top fits over the cab.

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Q. And they had sheets around it?

A1. They had sheets around it so you really couldn't see under it anyway. I do remember seein' her under there but I didn't pay any attention to it. And then Barry had walked up and, um, asked her if she was ok, how she was feelin', and told her that, he said, ok, which I didn't hear her ever say a word.

Q. Could you hear him talking?

A1. I could hear him talkin', he said, are you okay, you feel okay, you know, you sure, you want to stay out here and play, and Barry said, well I'll be back in five minutes to check on you're okay. And then he took off and left. And then..

Q. Where did he go, do you know?

A1. Back home, as far as I know...

Q. Which direction?

A1. ...he went that way.

Q. Ok.

A1. Back towards his house. Then a little bit later, I'd say five or ten minutes, like Julian said, um, she just got up, walked into the trailer, or the camper, and somebody else goes, who is that, and Joanne goes, well ask her if her name's Rachel, and Stephanie walked in and said, is your name Rachel, and I guess she told Stephanie, yeah, Stephanie said she was in there tryin' to puke. So soon as she quit, Stephanie picked her up and she started to puke on Stephanie and Julian and I had already gone to get Barry.

Q. Do you know Stephanie's last name? Who we're talkin' about.

A. Uh, Fleming.

Q. Stephanie Fleming?

A. Uh huh (yes).

Q. Ok. So Stephanie didn't know whose child it was at all.

A1. No, nobody had ever seen the kid before.

Q. Ok. But then when Barry came and picked her up, you had an idea where she belonged.

A1. Because he came to check on her, yeah, at first we had heard it was like a cousin or something.

Q. You'd never heard the little girl say anything?

A1. Not a word.

Q. Could you see her, her face or anything?

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A1. Not when she was under the camper, when Stephanie brought her out of the camper, after she started pukin', I mean she was as white as your shirt, with black rings around her eyes. And I started to tell Stephanie to bring her back and I was gonna go check on her but I didn't.

Q. Ok. And you were gonna check on her because of your medical background?

A1. Yeah. 'Cause she looked so bad.

Q. Uh, was she, do you remember if she was dry or wet or what her condition was, as far as her clothing?

A1. She was dry.

Q. Her hair.

A1. She, her hair didn't look that bad, it looked like it hadn't been brushed but you know with a kid playin' all day long, it can look that way. It...

Q. She...

A1. ...wasn't dirty.

Q. Was her hair down or was it in pigtails?

A1. It was down.

Q. It was down?

A. Yeah.

Q. Uh, what was it that Stephanie said, was Ste-, obviously Stephanie was concerned about the baby.

A1. Because she was in the bathroom tryin' to throw up. Stephanie said nothin' actually came up. We even checked where the little girl was sittin', after we heard the little girl had died, we checked where she was sittin' under the camper to see if maybe she had been throwin' up under there blood or you know anything we could find and, um, Stephanie said there was nothin' in her bathroom, the girl did not throw up.

Q. Ok. And since then Stephanie has moved away somewhere...

A. Yeah.

Q. ...unknown.

A1. [REDACTED] where their foster mother lives, all I know is a lady named Cindy.

Q. And you know her husband.

A1. Mike. He works at [REDACTED]

A. [REDACTED].

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A1. [REDACTED] the night shifts.

Q. Oh, I know where that is, ok.

A. [REDACTED]

A1. [REDACTED], yeah.

Q. And that's Mike?

A. Uh huh (yes).

Q. When.. Are they gonna get back together do you know?

A1. We really don't, I don't...

A. No.

A1. ...even think they're really split up, I don't know.

Q. Ok, alright. Have you ever seen that little girl running around here before?

A1. I haven't.

Q. You haven't. Julian, have you ever seen her?

A. I might have, I really never paid attention to her.

Q. Have you ever heard any, anything unusual or have you seen Barry with her before?

A. No, not that I recall.

Q. Ok.

A1. I've only been around here what, a month, month and a-half.

Q. Now...

A. From Julian.

Q. ...from what I understand from the both of you, and and and I'll speak to Dawn first, um, you heard something about Stephanie's child being involved in hitting her with a stick or something.

A1. Right. Stephanie's got a kid that's 4 or 5, Patrick, Patrick's the one that supposedly told Stephanie that Ryan, I think he's two, had hit Rachel in the stomach and that's when she went to the bathroom and tried to throw up. With a stick.

Q. Ok. That the two year old or two or ...

A1. The two, yeah.

Q. ...three year old...

A1. Yeah.

Q. ...whatever he is.

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A1. Is the one that hit her in the stomach.

Q. Hit her in the stomach with a stick.

A1. Right.

Q. And that's what prompted her to get up and..

A1. Go in the bath-, I mean she didn't ask, nothin', it was like she knew almost where the bathroom was, she went straight into the trailer to the bathroom.

Q. But had she ever been in there before?

A1. No.

Q. It seems not, since Stephanie didn't know.

A1. No, Stephanie didn't know who she was.

Q. But the little girl went into to get away or to do something, go in.

A1. Yeah, she went into the bathroom and one of the other girls that was there was goin', who is that, Stephanie looked and Julian said, well ask her if her name's Rachel.

Q. Did you s...

A. I don't remember sayin' that.

A1. Yeah.

A. I said that I don't know but Barry was just checkin' on her.

A1. You said ask if her name's Rachel and Stephanie goes, is your name Rachel, and I, I never heard her say anything, obviously I think Stephanie said that she just shook her head yeah. And she kept holdin' her mouth like she was gonna throw up.

Q. Did you see any blood on her at all?

A1. No, none.

Q. Ok. Um, any, any other bruises or anything comin' up on her?

A1. Just the black rings around her eyes.

Q. Do you remember what she was wearing, that the little girl was wearing?

A1. No, I don't.

Q. Julian, do you remember?

A. No.

A1. I know she was dressed and she wasn't dirty.

Q. Were her legs exposed?

A1. Yeah, she had on shorts.

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Q. Shorts.

A1. Yeah, and a short-sleeve shirt. Like a t-shirt.

Q. So her arms were exposed?

A1. Yeah. We didn't see any bruise, I mean she wasn't around that long but no major bruises to where you coulda looked at her and said hey, that kid's bruised up, no, it wasn't.

Q. But you could see at the time at about...

A. Right.

Q. ...5:00 o'clock in the evening.

A1. Right. And it was still pretty light out that day.

Q. Did you look over to see if, um, Barry's van was there, Julian, I'm gonna talk to you now. You said you went over to actually get Barry or did she?

A. Yeah, well I started to go over and get him, I only got like ten feet away from the, the camper and he was already walking towards us from his house, he was goin' west to Stephanie's trailer.

Q. Was anybody else around him, did he have his other kids?

A. No. No, there was no one else around him.

Q. Did you see his vehicle around there?

A. Yeah I think the van...

Q. Do you know what vehicle he drives?

A. ...was there, yellow van.

Q. A yellow van.

A. Yeah.

Q. Ok.

A. That was there.

Q. And it was parked there?

A. Yeah.

Q. Do you remember where it was parked?

A. In front of his house. Well, he just parks...

Q. Ok so he just parks it, as you drive in...

A. Yeah he just pulls...

Q. And he just..

A. ...pulls over...

Q. Pulls it ...

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STATEMENT OF JULIAN DURAN--CASE #940502025

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A. ...in front...

Q. ...right in...

A. ...of the ...

Q. ...front.

A. ...gate.

Q. Ok. Is there anything else you'd like to add, Julian?
That, that I haven't asked you or that's come up that you
know about.

A. The only thing I can add is that when Barry was checkin' on
her, he really showed a lotta concern for her, I don't think
Barry did anything wrong to her, honestly.

Q. Ok. Dawn, do you have anything to add?

A1. No. Just like Julian said, yeah, he did act really
concerned, he kept checkin' on her.

Q. Ok. Alrighty, well I thank you both very much.

THE STATEMENT WILL BE CONCLUDED AT APPROXIMATELY, UH, 1:32, SAME
DATE, 1330..1332 SAME DATE.

WITNESS:

DET. RANKIN #672

TRANSCRIBED BY:

C. PENN, MAY 20, 1994

REVISED MAY 26, 1994, PER DET. RANKIN

RANKIN\HOMICIDE\DURAN\#2336PENN

Exhibit 24

THIS IS BRUCE CLARK FROM THE PIMA COUNTY SHERIFF'S DEPARTMENT. TODAY'S DATE IS MAY 3, 1994, IT'S ABOUT 1550 HOURS AND I'M PRESENTLY AT 5650 S. LESLIE, I THINK IT'S AVENUE ISN'T IT? (AVENUE) OH, OKAY. AND I'M IN UH, SPACE #3 OR APARTMENT #3. UH, WITH ME IS A LADY NAMED NORMA LOPEZ. UH, THIS INTERVIEW WILL BE IN REFERENCE TO AN INCIDENT THAT HAPPENED AND IS FILED UNDER CASE #940502025. UH, IT'S IN REFERENCE TO THE RACHEL GRAY DEATH INVESTIGATION.

LEGEND Q = DET. CLARK A = NORMA LOPEZ

- Q. Uh, Norma can you please state your full name?
A. Norma _____ Lopez.
- Q. Okay. And when's your birthday?
A. 1/22/67.
- Q. And how old are you?
A. 26.
- Q. Okay, and do you know your Social Security Number?
A. 526-47-3191.
- Q. Okay, and is this your, where you live?
A. Yes.
- Q. Okay. Um, you called me I believe it was uh, about 9:00 o'clock this morning at work and you had some information for me you thought.
A. Yes I did.
- Q. Can you, can you tell me basically what you told me over the phone?
A. Okay. May...
- Q. And I'm gonna ask that you speak up just a little bit so the tape picks it up.
A. ...I sent the kids to the store for some sodas. Choice Market up the street over here.
- Q. Okay, and you have two kids?
A. I have two kids. Their twins and they're eight years old.
- Q. Okay. What are their names?
A. And, Ray and Laura. Reynaldo and Laura.
- Q. And what's their date of birth?
A. 12/19/85.
- Q. Okay. So uh...
A. So when they got back with the sodas...

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STATEMENT OF NORMA LOPEZ--CASE #940502025

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Q. ...I, I need to know what day that was first.

A. ...oh, oh. Oh that was Sunday. Sunday afternoon about 4:00 o'clock.

Q. Okay.

A. Around 4:00 o'clock.

Q. And that was just this past Sunday?

A. Yeah.

Q. Which would be May 1st?

A. Just the Sunday last. Right.

Q. Okay, and about what time did you send 'em to the store?

A. It was about 4:00 o'clock. I can't be sure of that, I'm not positive, but it was in the afternoon.

Q. Could have been a little before, a little after maybe?

A. Could have been a little before, a little after.

Q. Okay.

A. And when they got back they were both dying to tell me the same story.

Q. What, what'd you send 'em to the store for?

A. Uh, sodas. Pepsi and Slice.

Q. Okay.

A. _____.

Q. And they went to the Choice Market which is...

A. And um, Choice Market on Benson Highway.

Q. ...and it's just pretty much around the corner?

A. And it's just one block away. Yeah, just around the corner.

Q. Okay. So they went for Pepsis.

A. I could see 'em from here.

Q. And they came back?

A. I could see them from here. Yes.

Q. Okay, how long were they gone?

A. When they got back...

Q. How long were they gone?

A. ...um, ten minutes.

Q. Okay. And they had a story when they got back.

A. They had a story. Okay, they saw a yellow van and uh, we have a friend who looks like this guy that I saw on the news, but his name is Alonzo (ph) and they got back and said

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we saw a man that looks like Alonzo in a yellow van and he was punching a little girl. And he was driving with one hand. He was swerving like he was drunk, those are their, this is their words pretty much.

Q. Okay.

A. And they thought he was drunk and he was hitting her in the chest with his elbow and with his fist he was hitting her in the face. That's what they told me.

Q. Okay, so he was hitting in her chest with his elbow.

A. His elbow. Like they motioned to me, they showed me by motioning and this is what they showed me elbowing. And going like this and he was driving at the same time with one hand and the van was swerving.

Q. Okay.

A. And um, that's all. They said she was crying and they could hear her and they could see it.

Q. And how well do they know Alonzo?

A. Um, they don't know him that well. He just comes by once in a while. He's an old friend and...

Q. Okay, so...

A. ...comes by to have a beer with my husband once in a while.

Q. ...okay.

A. But they both look, they have that Frank Zappa type look, flying hair.

Q. Okay.

A. So that really is what caught us on the news is, I knew right away the kids saw the same guy that was in the van was, was the same guy that was on the news.

Q. Okay. So they came home just a little bit maybe after 4:00? We're not sure about the time.

A. Right.

Q. And they told you this story?

A. Right.

Q. And then when did you see the news?

A. The next morning, uh, when...

Q. This when the kids saw the news too?

A. ...no, the kids didn't see the news in the morning.

Q. Okay.

A. Um, they, I saw it in the morning and they reported that a girl was taken to Kino and died at arrival. And that's when

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I thought could it be the same girl. But um, the kids saw it when they got ho, home yesterday.

Q. Which would be Monday?

A. They saw the news at 5:00. The 5:00 o'clock news.

Q. Okay. And what did the kids say to you when they saw the news?

A. Well, well they showed the guy handcuffed in a red shirt and the flying hair and they said first that's the guy mom, that was in the yellow van. That's the guy.

Q. Okay.

A. And then I asked 'em to describe the little girl and she said it was a little blond girl that's what they said. And I asked was there anybody else in the van and they said no, that they couldn't see anybody else in the van.

Q. Did they say about how old the little girl was?

A. No. They, they describe her like a baby because to them a four year old is like a baby, but...

Q. Okay.

A. ...uh, they said little, a little girl.

Q. Okay. And they said they could hear her crying?

A. Yeah.

Q. Did they say how close they were to the van when they saw it go by?

A. No.

Q. Okay. I'll ask 'em, I'll get pretty particular with 'em when we...

A. Yeah, yeah, yeah, that's fine.

Q. ...when, did, when your kids explain things are they usually pretty accurate?

A. Oh yes.

Q. Okay. I, I mean I don't know your kids. Some kids, you know, kind of build things up.

A. Yeah.

Q. Some play it down.

A. Um, well see I know that because there's always a bunch of little fights between them here in the neighborhood, you know, all the neighborhood gang, they're out, they're all out at the same time every night and.

Q. Uh huh (yes).

A. They come in with their little stories. Oh, so and so's

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beating up so and so and it's the action around here.
And...

Q. And it's pretty accurate information?

A. ...yeah, they, I say well who started it and I ask them a lot of questions so.

Q. Okay. (laughs)

A. Yeah. (laughs)

Q. Okay, uh, and that's basically all that they said to you? Have they said anything to you since the news? Or they pretty much just drop it?

A. No, they wanted me to call. They says are you gonna call the police, are you gonna call the police.

Q. It was their idea?

A. Ye, well I mentioned it. I told my husband, I'm gonna call and they overheard me and my husband talking about it and they decided on their own. Yeah, mom we need to call and we'll talk to them, we want to talk to them.

Q. Okay. Right, pretty, pretty responsible kids.

A. Yeah.

Q. Okay, what grade are they in?

A. Second grade.

Q. Second, okay. Um, anything else?

A. (no response).

Q. Okay.

A. That's it.

UH, I'LL CONCLUDE THIS TAPE. IT'S UH, 1523 HOURS, SAME DATE.
THANK.

WITNESS:

DET. B. CLARK #569

TRANSCRIBED BY: CAROL MOORE, MAY 4, 1994

REVISED PER DET. CLARK MAY 8, 1994 BY #1523

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Exhibit 25

THIS WILL BE A TAPED STATEMENT AS GIVEN TO DET. RANKIN REFERENCE CASE #940502025 ON MAY 17, TUESDAY, AT APPROXIMATELY 1340 HOURS AND I'M AT 4301 E. 29TH STREET, APARTMENT 134 AND I'M SPEAKING TO SHANE.

LEGEND Q = DET. RANKIN A = TERRY SHANE RICHMOND

Q. Shane can you tell me your full name please?

A. Terry Shane Richmond.

Q. And your date of birth and your age?

A. 7-29 or 7-28-69.

Q. Okay. And...

A. And I'm, I'll be 25 in July.

Q. ...all right. And are you working now?

A. Yeah.

Q. Where do you work?

A. I work at

Q. Oh, okay. All that soda. All righty. Um, and you reside here with your wife?

A. Right.

Q. Okay. Are you familiar with a guy by the name of Barry Jones?

A. Right. Yes I am.

Q. Okay. And uh, when was the last time you saw him?

A. Sunday night, it was a Sunday night, the night before the little girl died.

Q. And how did you find about the, find out about the little girl dying? Did you see it in the news or?

A. I seen it on the news yeah.

Q. Okay, and you were able to associate the two I mean?

A. Well yeah, actually what happened was my mom called me because um, Barry went to my mom's house and told my mom that, he was all crying to my mom and stuff and wanted her to cr, to um, to drive his van for him. And that guy Ron, he got into Ron's truck and then like that's how I found out.

Q. Is your mom Alice Knight?

A. Yeah.

Q. Oh, okay. Okay. So Alice is the one that told you about what happened?

A. Right, yes.

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Q. All right.

A. Because like she, 'cause Barry went there crying to her and stuff.

Q. That, what morning, on Monday morning?

A. Yeah, Monday morning after I guess they took her to the hospital and they found out she was dead.

Q. Did your mom tell you that she was stopped by Sheriff's deputies?

A. Uh huh (yes).

Q. Okay. She told you the whole ordeal?

A. Right.

Q. Okay. Now you were there Sunday you say. Do you remember about what time it was Sunday you were there?

A. Probably, it was getting d, well it was already dark. It was probably had to be at least 7:30, 8:00 o'clock.

Q. Okay. Now when, when you were there what was your reason for being there? Going back there?

A. Um, my little sister, we had a birthday party for my little sister 'cause it was her birthday that Monday I think. And then um, Brandy, Barry's daughter, came over here with my sister and so we took her back because before we uh, when we picked up Brandy she said that Barry wanted to talk to me so I went by there. The van wasn't there so I didn't stop. I just kept on going. So then after we took Brandy back, that's when I seen her with her head busted open.

Q. Okay. So you went there to get Brandy at what time?

A. Um, well we didn't go there to get Brandy, she was already at that lady Patty's house.

Q. Okay. But you went back by Barry's house?

A. Right, yeah. But they're...

Q. The trailer?

A. ...yeah, the trailer.

Q. And what time was that?

A. Um, it had to be about 2:30 or 3:00 I would think. Well probably about 4:00 I would say. Yeah, it had to be about 4:00.

Q. What time was your party supposed to start?

A. Um, well we came and we cooked out at the picnic table first. We took 'em out there and cooked out, chicken and stuff like that and then we ate out there and then like 'cause we decorated the house and we didn't want 'em to see it until after...

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Q. Okay.

A. ...we had already ate and stuff.

Q. So that's a big difference from 2:30 TO 4:00. About what time did you go by Barry's? Did you have a watch on at all?

A. No.

Q. So you're just kind of judging by...

A. Yeah, I'm just kind of judging, yeah.

Q. ...okay.

A. But he, I don't know, but the van wasn't there so that's why I didn't stop.

Q. So between 2:30 and 4:00 what time would you say was closest?

A. Um, probably about 4:00.

Q. Around 4:00.

A. Had to be or like around 4:00 yeah.

Q. Okay. 'Cause you had to be back here at a certain time or?

A. No, no. Well actually yeah, we had to because we had to get the grills before someone else took 'em.

Q. Uh huh (yes). Okay.

A. So that's why we kind of in a hurry.

Q. All right. Now you went and picked up Brandy then?

A. Yeah.

Q. So when you go back what do you see that, how can you tell that he's not there?

A. 'Cause the van wasn't there.

Q. Did you go up to the uh, the door?

A. No. The door was open and stuff, but I didn't go in there 'cause I just figured that that lady Angela was there.

Q. What time are we talk, or um, sorry what van are we talking about?

A. The yellow van.

Q. The yellow van that he has?

A. Yeah.

Q. Okay. Now so you just leave and, and...

A. Right. We just drove through and we seen the door open, the van wasn't there and then we just bailed.

Q. ...the door to the trailer was open?

A. Yeah.

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Q. Okay. So you guys leave and you bring Brandy here and Brandy's with you guys all that time?

A. Right.

Q. Until what time do you go back to take her?

A. Um, it had to be like 7:30 or 8:00 because like she had to go to school that Monday and I guess um, my sister, Lesh (ph), told me that she had to hurry up because like Barry would get mad if she wasn't there...

Q. Uh huh (yes).

A. ...in time to take a shower and stuff before she had to go to school. So we just went and took her back.

Q. Aleshia's (ph) your sister?

A. Yeah.

Q. And she's how old?

A. Um...

Q. And is she about Brandy's age?

A. ...yeah. I think she's 14.

Q. Eleven, 14, okay. All righty. Now you take Brandy back and what is it when you first, you first walk in or knock on the door or what's going on?

A. Well 'cause the door was al, it was always open.

Q. Uh huh (yes).

A. And um, so right when we got out of the car we just walked in 'cause the door was already open, they seen who it was, so we just came on in. So, and then when we walked into the house I started talking to Barry and stuff and I didn't even notice that the little girl was hurt or anything because she was laying down on the thing. But then like we stayed there and we were talking to Barry and stuff and when uh...

Q. What was she lying on?

A. ...a pillow.

Q. Uh huh (yes).

A. The pillow on the couch beside Angela.

Q. Angela was there?

A. Yeah. Yeah she...

Q. Who were the other people that were there on the trailer?

A. ...um, Barry, Barry was there, Angela was there, um...

Q. And um...

A. ...my mom was there.

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STATEMENT OF TERRY SHANE RICHMOND--CASE #940502025

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Q. ...your mom?

A. Yeah, she was with me. And then Lesh was there, that's and Greg was sitting out in the car because he didn't go in for some reason, for some odd reason. I don't know why. But um...

Q. Greg is who?

A. ...my friend, Greg Ingle (ph). And um...

Q. Okay, does he visit with Jones? Barry Jones?

A. ...no, no. He does, he don't...

Q. Do they know each other?

A. ...well yeah, they know each other through me. See I've known Barry for quite a while now.

Q. But he's got no reason to go in there?

A. No. No.

Q. Okay.

A. Not even. And um, when we went in there that's when Angela was laying on the couch, the little girl was laying right here and then when the little girl lifted up her head that's when I seen all the blood on the pillow. And that's when I was all like dude, I said you guys should take her to the hospital, I said 'cause I had my head busted open before, I said it won't stop bleeding until you get stitches in there. And they said that they took her to the fire department right there by that bar, the...

Q. Who's they? I mean who's the one that said it?

A. ...um, Angela and Barry said it. They both said that they took her to the hospital, to the, not to the hospital, but to the fire thing.

Q. So they speak up at the same time type thing?

A. Yeah. Yeah, they both said it.

Q. Okay.

A. And then um, and then 'cause I was all, I didn't figure that if they, that if they took her to the fire department like that that uh, that the paramedics or whatever would just tell them that they, that she didn't need to go to the hospital. I just can't see that. And then...

Q. Is that what they said? How, what did they say exactly about that?

A. ...yeah. They said that they took her down to the fire department and when she fell out of the van. They said she fell out of the van so then they said they took her to the fire department and she said that um, Angela and Barry said that um, that the, the paramedics or whatever who was there

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I don't know, but they said that they talked to 'em and that they said it would be okay. That she was fine. And pretty much then after I seen that I told 'em to take her to the hospital and then we start, we just left because, I mean we didn't want to be a part of whatever, you know what I mean? 'Cause like he always had people coming in and out and stuff and like when they would come we would just leave.

Q. Okay. So what did you think about their story of taking 'em to the paramedics and the fire station?

A. What did I think about it?

Q. Yeah.

A. He, he, he acted like, you know what I mean? Like he really did. I mean my opinion is maybe he really did. I mean, but I mean I don't know. Because I wasn't there.

Q. Uh huh (yes).

A. But I mean he said that he did.

Q. Okay.

A. Both of 'em did.

Q. So why, you continue to tell him that he's gotta still take her to the doctors?

A. Well I told him, I told him once and then when I was walking out the door I told, I was telling my wife, Kim, that um, they did need to take her to the hospital and that's when we were walking out. So we just went and got into the car and then we just went down to that lady, Patty's, house. And we were all sitting there and my friend, Danny, came, 'cause we had to go back to Quik Mart to meet him to where he knew where it was and then we drove back to Patty's house and I still told my mom and Kim that, that he needed to take her to the hospital. And then we come home. Next day woke up, they was on the news.

Q. Okay, what did the little girl look like to you? Did you see her face?

A. Um, she was kind of, she looked like she was kind of pale white.

Q. Uh huh (yes).

A. Like she was bleeding. I mean 'cause you could tell she was bleeding pretty bad from her head. And she looked like she needed to go to the hospital. Maybe they needed to give her some blood or something like that.

Q. Okay. Um, were her eyes open, was she looking...

A. Yes, she o, she was wide awake, she was just sitting there. She didn't say anything while we were there huh? But like she um, she didn't say anything. She just laid there on the

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couch and stuff. And Angela laid next to her.

Q. ...that's okay. The kit, the kitty's kind of curious. She won't knock it over. Um, have you ever been around Angela and Barry when they have Rachel with 'em?

A. That's really hard to say. I never really, I mean I've been around 'em both, but like when I was there sometimes all of the kids were there.

Q. Uh huh (yes).

A. It just wasn't like both of them being with, you know, what I mean Rachel or whatever her name is.

Q. Okay.

A. See I ne, I never hung out, you know what I mean, over there that much 'cause I didn't want to be in that kind of environment.

Q. Uh huh (yes).

A. So that's the reason I would never stay there.

Q. Okay. So we know, since we know we're talking about the same one um, Rachel being the smallest or the, the four year old?

A. The little girl, yeah.

Q. Okay, now did you know her to be the youngest that was in that group of kids that they had?

A. Yeah. Yeah.

Q. And, kitty, and um, did you know her by the name of, that's okay, she will just climb all over the place, I'm sure she's used to it.

A. Did I know her by the name of Rachel?

Q. Yes.

A. Yeah.

Q. Okay.

A. Yeah I did know that.

Q. Would the little girl talk to you and...

A. Sometimes. She would talk to my friend, Greg, too.

Q. ...okay. Did you um, ever see any bruises on that little girl before that date?

A. Um, well we were there and day before and they said that um, 'cause she had a black eye before. And they said that she tripped over the dog.

Q. Did you see that black eye before?

A. Um, I did see it, but I mean I just really didn't pay

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attention to it. It wasn't really a black eye, it was just black right here.

Q. Uh huh (yes). You're pointing to your right eye?

A. Yeah. Well I mean yeah, it was black right here, like in the thing right here like close to your nose?

Q. Right. And what did they tell you happened?

A. They said she fell over a dog.

Q. When was that? Do you remember about what time it was? Prior to the Sunday that you go over that night, how long before that was it that you saw that black eye?

A. Pro, I would say about a week. 'Cause I wouldn't go over there that much because I didn't, you know what I mean? I just didn't want to go over there that much.

Q. Uh huh (yes).

A. And like I just, I don't know. 'Cause it was all, there was always people there and stuff so I didn't go over there that much because of Kim.

Q. Okay. You say you know a little bit more about Barry as far as um, have you ever seen him act violent or...

A. Act violent?

Q. ...heard of him being that way?

A. Oh yeah I've heard of him being violent. (laughs)

Q. Okay, how, how was it, what kind of things have you heard about him being violent?

A. Like Angela's husband when um, when Angela moved in with Barry.

Q. Uh huh (yes).

A. See 'cause they haven't been together really that long, I mean it hasn't been that long at all huh? And then um, and then uh, he, he pretty much beat the crap out of him I guess and he pulled like some of Barry's hair out right here, pulled a handful of Barry's hair out. That's why he's kind of bald right here.

Q. Oh yeah, okay. All righty. Um, and you, you're familiar with his brother Larry too?

A. Yeah.

Q. Okay. Now there's another person that you said was also living there a, a friend of Barry's? What's his...

A. Kenny Bear (ph)?

Q. Kenny Bear?

A. Yeah, that's what they call him, I don't know his last name.

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STATEMENT OF TERRY SHANE RICHMOND--CASE #940502025

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Q. What is he like, what's?

A. He's um, well what do you want me to do, describe him?

Q. Yeah, does he work or anything?

A. No. No, they don't work.

Q. Or what does, where does he hang out?

A. Well um, he, I guess um, his mom or some, I don't know who owns it, but I know that Shannon and them guys go, you know where the um, what's the name of that bar, um, Elmer's.

Q. Uh huh (yes).

A. You know Elmer's?

Q. Uh huh (yes).

A. I guess his mom and his sister, whatever I don't know them, I mean, but like um, they own that bar or whatever. And they're affiliated with the Devil's Disciples 'cause they're always in there and stuff. And uh, he, I guess that's probably about the only way you could get ahold of him really unless...

Q. Kenny Bear?

A. ...Kenny Bear, yeah.

Q. What does he look like?

A. Well he, he's about probably about six foot something and he probably weighs about 300, 350 pounds. 350 pounds. And...

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Q. White guy, black guy?

A. ...yeah, he's a white guy. Kind of got some scraggly, he's kind of scraggly.

Q. What color hair?

A. Um, I think it's black.

Q. And his eyes, do you know what color eyes he has?

A. No.

Q. And he's a big guy?

A. Yeah.

Q. Does he have tattoos?

A. Um, I'm sure he does, but I never really paid attention. He always wears a leather jacket. Could be 110 outside, he'll still be wearing that leather jacket, blue jeans, boots.

Q. Does he ride a bike?

A. No.

Q. He doesn't ride a bike?

A. Walks.

STATEMENT OF TERRY SHANE RICHMOND--CASE #940502025

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Q. But he looks like a biker?

A. Yeah.

Q. Okay. Um, and they just call him...

A. Kenny Bear.

Q. ...Kenny Bear? But you don't know his last name?

A. Yeah. No.

Q. And when was the last time that you saw him there?

A. When was the last time I saw him there? Um, one day when I went over there and Barry wasn't there and he was in there. And I guess it was probably him and Angela and the kids were probably there too.

Q. So Angela's there with this big guy...

A. Yeah, she knows who he is. Very well.

Q. ...okay. And then the kids were there too?

A. Yeah, all the kids were there.

Q. Have you ever seen this Bear, Kenny Bear there with the kids on, by himself?

A. Yeah, he would babysit the kids. He'd babysit the kids.

Q. When was the last time you saw him doing that?

A. Um, dang, I don't even know. It's, I mean 'cause it's like really hard to remember back that far.

Q. Has it been a while?

A. Well I mean yeah. It's, it's been a few.

Q. Cats are curious aren't they?

A. Yeah.

Q. He's a cutie. Okay, is there anything else that you can think of? Have you heard anything else or any...

A. Well I heard, this is what I heard. I mean the, the morning that um, that it all happened.

Q. ...uh huh (yes).

A. When I went over to Patty's house and stuff, me and Kim did, and they said that Barry raped the little girl and then cut her up and all kinds of crap like that. That's just rumors though. That's about the only thing I heard though.

Q. Okay.

A. I mean Barry is a nice guy though I think. I mean, I really could not hardly believe that he would do something like that. I couldn't believe...

Q. To you as an adult, he's a nice guy.

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STATEMENT OF TERRY SHANE RICHMOND--CASE #940502025

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A. ...yeah. But I mean I just couldn't see him doing something like that, I mean if he did, he did, but I can't say if he did or if he didn't though, you know what I mean? That's just one man's opinion.

Q. Right. Okay. Is there anything else you'd like to add?

A. No, that's about it.

Q. Okay. Um, how long have you been in Tucson?

A. God, for probably three, three and a half years, four.

Q. So you've got connections here, your family's here, your mom, Alice?

A. Yeah. Well she's not here right now. She's in Montana.

Q. Oh, she is?

A. Yeah.

Q. Oh, okay.

A. 'Cause she travels.

Q. Is she coming back?

A. Yeah I think she will come back.

Q. She travels doing what?

A. Just she travels to go see my sisters, 'cause my sisters live there and my um, younger sister, Angie, just had a baby.

Q. Oh, do they have a house here? Your mom?

A. Um, no.

Q. No?

A. She lived, she used to live with Patty.

Q. Oh, who's Patty?

A. Patty, um.

Q. What's her last name?

A. You got me.

Q. Where does Patty live?

A. She lives in, you know where that brown trailer is, okay, you know where Barry's house is?

Q. Uh huh (yes).

A. Um, what is it, you kn, what is it by Weatherhaven? I think it's by Weatherhaven, but it's like the one before. Like all those buildings are condemned and everything right there?

Q. Right. And she's got a brown trailer?

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A. Yeah.

Q. So is it in the same lot? Or on the, on the other side of it?

A. Well Weatherhaven's right here and then there's like, 'cause Weatherhaven is not the same place, it's that other place.

Q. But it's called Weatherhaven?

A. Um, I don't, I'm not for sure if it's called Weatherhaven or not.

Q. Okay.

A. But it's like the one right before Weatherhaven, I know that much.

Q. Okay. All righty. And she has a brown trailer?

A. Yeah and she knows Barry pretty good too.

Q. Is it east or west of, of Barry's trailer?

A. Would that be west or east or?

Q. You could just guess.

A. Yeah, it'd probably be e, west huh? East?

Q. I'll find it. Okay.

A. Yeah. It's east probably.

Q. All righty. Okay. Then that'll be it um, unless you have anything else to say?

A. No, I'm fine.

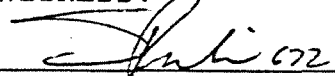
Q. I, if I have any other questions, can I come back and talk to you?

A. Yeah, that's fine.

Q. Okay.

STATEMENT WILL BE CONCLUDED AT APPROXIMATELY UH, 1357 HOURS, SAME DATE.

WITNESS:


DET. S. RANKIN #672

TRANSCRIBED BY: CAROL MOORE, MAY 18, 1994

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